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THE CHARTERS

AND OTHER

DOCUMENTS

RELATING TO THE

KING'S TOWN OF MAIDSTONE.

Kent

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THE CHARTERS

AND OTHER

DOCUMENTS

RELATING TO THE

KING'S TOWN AND PARISH OF MAIDSTONE,

IN THE COUNTY OF KENT.

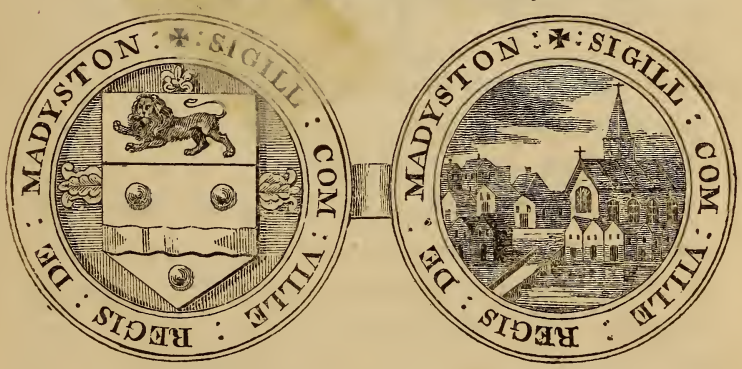
WITH

NOTES AND ANNOTATIONS

CLEARLY SHOWING THE RIGHT OF ELECTION OF MEMBERS OF PARLIAMENT TO BE IN THE INHABITANT HOUSEHOLDERS.

By WILLIAM ROBERTS JAMES.

The comen Seale of the King's Town and Parish of Maydston, 1619.



The Seale appertayning to the Mayer of Maydston, 1619.

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DEDICATION

FROM THOSE

WHO HAVE UNDERTAKEN TO VINDICATE YOUR RIGHTS

TO

THE INHABITANTS OF MAIDSTONE.

To you this compilation, intended solely for your common benefit, and to vindicate your rights, is, with all confidence, dedicated.

It must be obvious to you that these documents could not have been collected, nor this work prepared, without considerable cost and trouble, which have been devoted to your service.

Not that there is any intention to appeal to your passions, or to rouse you into violence. We appeal only to your understandings. We call upon you to investigate these documents patiently and temperately: to ascertain from them with certainty and conviction what are your real rights, and then put to yourselves the question, do you enjoy them? If you do not, the next question is, will you tamely submit to the deprivation of them, or will you manfully and resolutely, with the firmness of those who value their rights, but at the same time with the moderation of those who re-

spect the laws, use all legal means in your power to resume your long alienated privileges, and enforce the enjoyment of your liberties and franchises?

For ourselves, we avow a fixed and steady purpose to pursue the course we have begun, and never to relinquish that purpose, until we have either restored the object of our desire, the full enjoyment of our *common rights*, or have obtained satisfactory conviction that we are not entitled to that which we claim.

In this pursuit we are anxious to avoid clamour or violence; and, above all, altercation. We entertain no personal disrespect or hostility towards the present members of the corporation,—as having long enjoyed the exclusive privileges which they now possess, we do not even say that they are called upon to relinquish their possessory right, until they are satisfied that it is founded in usurpation, and that they can no longer retain it with honour. As we know our claim upon them is founded on good motives, so shall we be ready to attribute their resistance to the same cause, until they have had a full and fair opportunity of investigation.

We submit these documents, and the observations made upon them, to their consideration. We call upon them, as a duty they owe, as well to us as to themselves, to investigate them carefully; to examine also all other documents in their own

possession; and upon a patient investigation of the whole, to decide for themselves. We appeal to their honour for a fair hearing; we appeal to their understandings for a decision; and relying with confidence upon the solid foundation of our case, with the decision of this domestic forum, honourably tried by our own fellow-townsmen, we are ready to abide.

Honourable men, or real patriots, or those who really respect our municipal institutions, ought not to make an appeal to the law necessary. We should not have resorted to that course, had we not been repeatedly told that the corporation could not entertain our application, and that if we meant to succeed, we must apply to the courts of law. To show our confidence in our case, to those tribunals we have applied; but whenever we find that the corporation will really and seriously attend to our application, and consider our case, we are ready to suspend our legal proceedings, and wait the result of such an inquiry.

What do we ask? What would be the result of our application? and to whom do we apply for relief?

Our charters are all granted for the professed object of improving the place, and the condition of the inhabitants. We, a great body of those inhabitants, now excluded from the privileges granted by these charters, ask to be allowed to participate in them, and that persons who are not inhabitants

of the town should not be allowed to enjoy them; certainly not to our exclusion. Do we ask this in vain of you, *our fellow-townsmen?*—are you so *unjust* as to exclude us from these privileges?—are you so *unwise* as to prefer strangers to join as participators in your privileges, to us who are your neighbours, and, in many instances, your friends? Who are the most likely to concur with you in measures for the benefit of the town?—we, the inhabitants in it, or strangers unknowing and unknown to you—uninterested in our general welfare—unlikely to be able duly to appreciate the value of your characters, or in any respect to feel your influence.

Justice and policy would here go hand in hand. We, who hereafter are likely to be most sensible of the respect due to your characters, and most subject to the legitimate influence derived from your wealth and municipal authority, ask you, the mayor, jurats and commonalty of Maidstone, to substitute us, your neighbours, for persons, strangers and foreigners to you. Can this appeal be made in vain, if you find history and law, justice and reason, charters and custom, sanctioning our demand?

Nor, as a question of policy, can the increase of the value of property within the town, when the inhabitant householders are allowed to be entitled to share the liberties and franchises of the place, possibly escape your observation.

PREFATORY REMARKS.

BEFORE we enter into a discussion of the ancient constitution of the borough, and of the construction which formerly was, and still ought to be, put upon the charters incorporating its inhabitants, it may not be amiss to make a few observations on the present state of the corporation.

We shall do this fearlessly, because we know that our data cannot be denied; we shall do it plainly and explicitly, because we wish to be understood, that if our statements are inaccurate, they may be corrected. We shall do it moderately and temperately, because we wish not to exasperate, but to conciliate.

To the greater part of you, the facts we shall state are well known, though probably you are not in the habit of recalling them to your minds, or considering their effect. If you did, we feel confident that no dispassionate reflecting mind can for a moment hesitate to see and acknowledge the necessity of reformation; particularly with regard to the exercise of the elective franchise.

The present population of Maidstone is, from the best authorities, calculated at 14,000.

There are 813 freemen, of whom only 490 are resident, the remaining 323 living entirely away from the town, and not contributing in the slightest degree to the support or improvement of it, or sharing in any manner with the inhabitants the legal burthens of the town, whether pecuniary or personal.

Of the 14,000 inhabitants there are 2,373 householders, of whom only 795 are rated, the remaining 1,578 residing in houses not exceeding 12*l.* per annum, and having their rates paid by their landlord.

Again, of the 795 householders who are rated, there are 172, at present, freemen, and 97 females. Of the 1,578 non-rated householders, there are 174 freemen.

There needs but little more than this plain statement to convince any impartial reader of the absolute necessity of measures being taken to restore the right of election, and the borough and corporate liberties and privileges, to those in whom they were originally vested, namely, "*The inhabitant householders—those who bear the burthens of the place, by paying scot and bearing lot.*

It will be obvious, that as far as the parliamentary right of election is concerned and exercised, it is, in the present state of the borough, frequently in the power of what is commonly called a third man—

that is, some adventuring stranger, with a long purse, (aided by the venal part of the non-resident freemen,) who is disposed to part with his money freely, with the usual pre-covenanted ignorance of the manner in which it is to be applied; and such, we regret to say, are always too easy to be found, to carry an election, and to return to Parliament, in spite of the opposing wishes of the inhabitants, or even of the resident freemen, any two members, even the most objectionable to the whole town and all the inhabitants. Thus, if two candidates of equal pretensions, as far as the interests of the town, or the wishes of the inhabitants or resident freemen were concerned, were to divide the greater portion of the 490 residents, the third man, though he should obtain few or none of the resident votes, might, by the non-resident freemen, carry every thing before him, outvote the two favourite candidates adopted by the inhabitants of the town, and put in their place persons totally objectionable, offensive to the inhabitants, and hostile to their views: and thus this ancient borough and town would find that it has palmed upon it, as its representatives in the great Legislative Assembly, to watch over its interests, those of whom the inhabitants know little, and to whom they or their concerns are little known, and between whom and their proper constituents there can be neither confidence or respect.

Is the British constitution admired throughout

the world? and can this be a part of it? We answer the question promptly—it is no part of it. These are the distortions of our excellent constitution, brought in by *fraud* and usurpation. Here we ask our *opponents* to such, for a fair and direct answer; they must say, these things are allowed by our constitution, or they cannot support them. We redeem our venerated constitution from the unfounded imputation, and say, attribute this not to the folly of our laws or our institutions, but to the corruptions of usurpation.

But this, though grievous, is not the whole cause of complaint against the system at present practised in our town. We have a great disinclination in any manner to attack or reflect upon our poorer brethren; we would rather lessen their sufferings and increase their comforts, than abridge any of their rights; but we have entered upon a solemn duty, and we must discharge it faithfully to our country; we are considering who ought to be legislators for this great nation, and by whom (at least with reference to one place, which may be an example to others) these legislators ought to be elected; and we say, fearlessly, because it cannot be contradicted, that, as far back as our history reaches, it has been the invariable practice of our constitution, that those who elect the representatives in Parliament, should, at least, be apparently independent in their stations in life, and not subject to that direct and irresistible influence which pau-

perism induces; hence, as a principle of the common law, all persons receiving parish relief have been at all times rejected as voters, and though this principle has never been directly denied at our elections, it has been virtually and tacitly rejected.

Of the 490 resident freemen there are, and always have been, a great portion in a state of absolute pauperism, many actually residing in the parish workhouse, and others receiving weekly parochial aid. It is an indisputable fact, that these persons, just previously to an election, are supplied with food and clothing, or the means of procuring them, and in due time are brought up to vote. It may be asked, why are not their votes rejected? the answer is plain, simple, and cannot be denied. All the candidates resort to the same means, and it is a sort of tacit understanding amongst them, that the question of parish relief shall not be put to any of the voters.

Thus these persons, who are supported in part, or entirely, by the inhabitant householders, and from the state in which they are, must be too open to the direct influence of money, exercise, under that corrupt influence, the right which is denied to the great majority of those by whom they are supported; for, of the 795 rated householders, the elective franchise is denied to 526 who are competent to vote.

As on the one hand we have no wish improperyl

or unconstitutionally to depress our poorer neighbours, so also have we no wish unconstitutionally or unreasonably to aggrandise the rich, but we must do to them also what reason and justice require—those who have wealth, bear, in proportion to their property, more of the burthens of the state, as well local as general. It is therefore but reasonable, and equitable, that they should have some voice in the election of their representatives in Parliament, if not a voice commensurate with their liabilities, at least some voice. Now in this place, a small proportion of those who, according to the present practice, have the elective franchise accorded to them, are men of property; the great majority of them, as must have appeared from the facts already stated, not having sufficient even to be called upon to contribute to the rates of the parish. Many of those to whom the franchise is denied are men possessing considerable property in the town, residing there, spending their incomes in the town, and paying the usual rates for their property; filling all the parochial and other offices, when called upon, and in short bearing all the burthens of the place, as well those which are pecuniary as personal.

It may not be amiss here to give to our readers what is known to many residents of Maidstone to be an historical fact. On a warmly contested election for a member of Parliament for the town, twenty-one voters entered into an agreement not

to accept less than a certain sum for their votes; they hid themselves in a hay-loft, but from time to time had notice how matters went on. The candidates were so even in their numbers that these men had it completely in their power to carry the election. One of the candidates found them out; but they having drawn up the ladder, he could not get to them without having first given an undertaking to come into their terms: they then admitted him, and the consequence was, they proceeded in a body, and gained the election.

With reference to the present state of our corporation, we proceed to that subject with less inclination, and more reluctance, because, in the first place, we conceive it of less importance, both in a local and general point of view. Generally speaking, and with reference to the public at large, it is of no importance who administers the local government of our place; even locally speaking, it is not very material; and as a matter of individual ambition, the civic gown and dignity is scarcely enough to gratify even the vain; and we fear on this part of our subject we might unintentionally be drawn into observations which might have the appearance too much of personal attack; we therefore feel a reluctance to embark ourselves in this pursuit, and we willingly content ourselves with adopting the previously published statements of others, with respect to the progress of our corporate

system, than needlessly suggest any thing new, of our own.

For this purpose, with a view of giving information to our readers, we make the following extracts, with some few alterations, from a small pamphlet we find published in the year 1786, and the facts contained in which we have every reason to think are correct.

After speaking of the two parties then existing in the place—the Aylesford interest, and those who supported Mr. Taylor in opposition to that interest, and speaking of the granting of the new charter, in the year 1747, the author, in page 14, proceeds to state, that "When the new charter was granted, which bears date the 17th of June, 1747, those who drew it up seem to have had in view the disputes that occasioned the loss of the old one; and endeavoured, if possible, to prevent future contentions, by confining them to a particular mode, and expressly declaring in whom the right of electing the mayor, jurats and common council should be vested.

"The charter gave so little satisfaction to either of the contending parties, which were respectively headed by the late Lord Aylesford and the late William Horsmonden Turner, Esq. that it lay a year and a half in the office, before either of those gentlemen would accept it, though they both used all their interest in the Privy Council to get it framed agreeable to their own views at that time,

and particularly the clause for filling up the common council, but without effect; for after it had been debated three several nights in the Privy Council, it was resolved that the charter should be drawn according to the plan reported by the then Attorney and Solicitor General.

" At last, Mr. Turner, just before an election, thought it his interest to accept it, and accordingly brought it to Maidstone; where, being read to the freemen, it was received with general approbation.

" Some time after the charter was obtained, one party got the reins of the corporation into their own hands, and elected Mr. Thomas Pope, the first mayor after their accession.

" Finding themselves thus comfortably circumstanced, they began to read the charter with a nice and critical eye, and observed the clause which gave them the power to enact bye-laws. After some deliberation, it was resolved to put this clause in execution, when it should be 'necessary, convenient, and advantageous' to themselves; and settle wholesome precedents for succeeding generations. And first, Mr. Thomas Pope, that the seat might be rendered perfectly easy and agreeable to him and his successors, and that the chief magistracy might be supported with splendour and dignity, craved the benefit of the bye-law clause, by which they were empowered to make, &c. 'profitable and honest laws according

to their discretion.' Agreeable to this, a bye-law was made, whereby a grant of 50*l.* was given to himself, and all succeeding mayors, for executing that office, which before had been thought an honour; but this law, if it had been put in execution, would have rendered it a pecuniary employment.

"Mr. Pope, who was then at the head of the party, conceived that the power of enacting bye-laws was boundless; but how far this law coincided with the sense of the corporation, and even the bench itself, is evident from its operation; for although Mr. Pope was the author of it, he did not accept the 50*l.*, on account of the poverty of the corporation, and the contempt he would have been liable to, having so often, before he got into office, preached from the text of economy.

"Mr. Wildash being elected mayor the next year, this law was repealed.

"From the time the charter was first brought to Maidstone, the commonalty had experienced the right given them thereby, both in the election of common councilmen, and admission of freemen, without any apparent inconvenience to any one; and so long as the bench could carry the election of their friends into the common council, this power vested in the commonalty was very agreeable to them. But having, from the time of their first coming into power, by a series of arbitrary proceedings, so far alienated the affections of the commonalty from them, that, notwithstanding

the utmost efforts they could make to the contrary, on the 9th April, 1764, an election of four persons into the common council was carried against them. This so exasperated the mayor and his party, that many of them made no scruple publicly to declare that they would prevent the freemen carrying an election against them in future, by depriving them of the right of voting, not only at the election of common councilmen, but also on the admission of freemen: but as these very persons, before they got into power, had repeatedly told the commonalty that it was not in the power of the bench, by any bye-law, to deprive them of any part of their privileges, so expressly granted them by the charter, no credit was given to these threats. However, it soon appeared that they were in earnest, for on the 8th August following, a summons was posted for the jurats and common council to meet the mayor on the 18th, to make such reasonable laws as should seem necessary for the good order and government of the town. The result of this meeting was, two bye-laws were made: the one for depriving the commonalty of the right of voting for common councilmen, and vesting the power in the mayor, jurats, and common council, and such as had served the office of churchwarden and overseer of the poor; the other, for depriving the commonalty of the right of voting on the admission of freemen, and vesting this power also in the same persons,

"The freemen finding themselves thus deprived of the rights so expressly granted to them by the charter, and in a manner disfranchised by the nefarious acts of the bench, disputed the first of these bye-laws, which was accordingly set aside by judgment of the Court of King's Bench in Hilary Term 1766, and mandamuses were ordered by the Court to go for filling up the common council bench agreeable to the charter. But so little regard was paid by the bench to the judgment of the Court, or to the writs of mandamus, that the day before the writs were returnable, viz. on the 11th of February 1766, the mayor, jurats, and common council met, and made two other bye-laws: the one for vesting the power of electing the common council in the majority of the mayor, jurats, and common council, and forty senior freemen; and the other for vesting in the same persons, the power of admitting freemen: the next day the first of these bye-laws was put in execution, by electing two common councilmen; but the mayor, under the pretence that the meeting was not legal, advised the two who were elected, not to accept the office under that election, for that he, at a future day, would call another court, when they might be re-elected, which was accordingly done on the 2d day of April following.

"It is necessary to observe here, that the illegality of the court was only a pretence of the

mayor; for, concluding that the bye-law would be disputed, if he put it in execution the day after it was made, and on which the mandamuses were returnable, he thought the Court might look upon it as an insult to their authority in thus avoiding to execute the writs according to their tenor.

"The freemen immediately filed an information for the purpose of disputing this bye-law, and the bench finding that they were determined to bring the matter before the Court, after they had tried every art to prevent it, thought proper to let judgment go against them in Hilary Term 1767.

"This was no sooner done, and thinking that the commonalty would at last be tired out with the expense of prosecutions, on the 14th March following, they ventured to make a third bye-law, with this difference only, that instead of 40 of the senior freemen to be joined to the bench, they made the number 60; by which they would have had it understood, that as the bench consisted of but 53, the commonalty were the larger number; and on the 22d May following they put this bye-law in execution, by electing a freeman into the common council, and swearing him into office.

"The situation of the commonalty at this period was become really of a serious nature; they were not only injuring themselves in a private capacity by the expense of these repeated prosecutions, but were absolutely *supporting their oppressors by means of the bench making use of the corporation*

money to defend their lawless acts. The continual feasts with which the mayors entertained themselves, and the mysterious manner of their embezzling the wealth of the corporation, which was now reduced almost to beggary, could no longer be borne by the freemen, who, when a burghmote was held, some time after, went to court and told them in plain terms, that no more freedoms should be sold without their consent, and since that time the conduct of the bench has not induced the freemen to repose this power in them again.

"Although the charter gives a power to the bench to make bye-laws, yet it seems evident from the clause which gives them that power, that it does not mean bye-laws to alter the constitution as settled by the charter, for that would be in effect giving a power to overturn itself, and the charter says, that 'all and singular such laws, ordinances and constitutions shall be reasonable, and be not repugnant or contrary to the laws, statutes, customs, or rights of our kingdom of Great Britain.'

"That this bye-law was not reasonable appears manifestly from the following observations, though it carried the appearance of equity by appointing a larger number of the commonalty to be electors jointly with the bench than the bench consisted of: yet it was literally a shadow; for by not restraining the 60 seniors to residence within the corporation, or to be freeholders, householders,

or to have other qualification whatever, than that of freeman, *nearly half of them were constantly resident at a distance*, and therefore could not be summoned, as they ought to be, to attend their elections. Another part of these, who were resident in the corporation, were constantly in the workhouse of the parish, or almshouses of the corporation, and, of course, under the influence of the mayor and jurats; and the remaining few, by age and other infirmities, not capable of attending; for as the number of freemen was between eight and nine hundred, in course of nature, the 60 seniors would be nearly, if not quite 70 years of age, and many of them 80 and upwards.

Further; *it was very immaterial to foreigners who were of the common council;* even if they could have been summoned, they would not attend, as they were not subject to any penalty if they did not; so that any person after that time who should be induced to offer himself as a candidate for the office of common councilman, if he was not agreeable to the bench, found it impossible to succeed, from the obstacles which were thrown in his way by this bye-law.

"It is obvious, from the management of the bench in framing it, that though they pretended it was to prevent riots and popular confusion, their real object was to engross the whole power of electing the common council to themselves, or they could have limited the right to such as were

resident in the town and parish, being freeholders or householders, and exclusive of the common council, who, by this law, were made to be part of the electors themselves, seeing the charter had clearly excluded them, by directing that the mayor, jurats, and commonalty shall fill up the common council bench. This was sufficiently evident at the election of one Robert Cutbush, some time after; for, of the sixty seniors seven only appeared, and these, poor people procured by the bench to attend, several of whom came from the workhouse and almshouses; and as a further proof of their intentions, they did not publish a list of the names of the sixty, as they had done under the former bye-law, so that it was not in the power of the commonalty to know who they were.

"It is evident, from the obstinacy of this party in opposing the judgments of the Court of King's Bench, to which they paid so little deference, that they were determined to keep the government of the town in their own hands, for they did not even hesitate at any thing, however unjust, nor leave unexecuted any iniquitous scheme which might disfranchise the freemen, and render themselves, to a certain degree, absolute. The freemen thus circumstanced had recourse again to the Court of King's Bench, and in Michaelmas Term 1767, this bye-law was set aside by judgment of the Court, and mandamuses were ordered to go for filling up the common council bench as before, and this

seems to have been decisive, for since that period the bench have not presumed to renew either of these bye-laws, nor made any other with respect to filling up the common council bench.

" When we bring into one point of view these arbitrary acts, the despotic sway with which these men would have ruled, if not checked and corrected by our wholesome constitution, the infringements they made on our privileges, and the violation of the charter, by which they endeavoured to render themselves absolute, we must be thoroughly convinced of the baseness of their principles, and to use Lord Mansfield's words, on the hearing of the cause on the last bye-law, ' *They would overturn the constitution itself, if it were in their power.*' What might we not have expected if some spirited freemen had not opposed these invaders, and this current of tyranny? Nothing less than a deprivation of our rights as freemen, and an abject slavery to their wills.

" After these three bye-laws were set aside, the bench, who had now rendered themselves obnoxious to the society, meditated new schemes to incommode the commonalty, finding every manœuvre to deprive them of their privileges ineffectual. Thus dejected by the judgments of the Court of King's Bench, they soon devised another bye-law, which, for its ignorance and malice only, is worthy of remark. It had been the custom, when the mayor gave notice of a burghmote, to mention in

the notice what business they intended to go upon. This bye-law was nothing less than to ordain that '*the business of the day should not in future be inserted in the notices, nor by any other mode made public.*'

"Some time after this, the mayor gave public notice for holding a burghmote, two vacancies having happened in the common council: the freemen concluded that it was held for filling them up, and attended according to their summons, in expectation of a contest; but after having waited a considerable time for a majority of the jurats to make a court, the mayor being then alone, the freemen, to their disappointment, saw them, instead of attending their duty as magistrates and honest men, set out on a party of pleasure to Horsmonden fair: the consequence was, a burghmote could not be held, and the freemen were sent about their business, the ruling party, who planned this scheme, being well persuaded that they should have lost their election if the bench had been filled up.

"In 1780, the Parliament being dissolved, Mr. Taylor was proposed as a candidate for one of the representatives. At this time things began to wear a very different appearance; a more pleasing prospect now presented itself; the interest of the ruling party began to decline, and the glare of their insidious promises grew dim: every honest freeman began to exert himself, threw aside his prejudices, that false medium through which it is im-

possible to see clearly, and listed under the banner of freedom, supported by its able friend Mr. Taylor, who was returned one of the representatives, in spite of every effort of the ruling party, who lost their own election; not to forget the illiberal epithets which were thrown out by them in the course of this memorable contest.

"Two jurats dying about this time, Sir William Bishop, then Mr. Bishop, and Mr. Thomas Argles were nominated by the ruling party to fill up the vacancies; Mr. Seager was then preferred to Mr. Argles by the opposite party, and nominated by them. Mr. Argles pleaded a custom of rotation, and declared, that if Mr. Seager were chosen, he would never more sit on the bench; that it was '*uncandid, illiberal, and ungenerous, even to nominate him.*' Upon these considerations, and the force of Mr. Argles' eloquence, he was elected.

"From 1782, till the present time, (1786,) no burghmote has been held to fill up the bench, notwithstanding the repeatedsolicitations of many respectable freemen; during the interval, nine vacancies have happened, and the ruling party have tyrannically refused to fill them up. Thus four years have we tamely suffered to elapse without being properly represented on the bench, and submitted ourselves to their reproachful government; and what aggravates the case still more, for the space of a year and a half, they did not hold a burghmote to make free; in which time

the Parliament was dissolved, and many young freemen were deprived of the privilege of voting for their representatives.

"At last a promise was obtained from Mr. Pope, the mayor, for holding a burghmote for filling up the nine vacancies which had happened in the bench; viz. four jurats and five common councilmen. Friday, the 4th August last, was appointed for the purpose, but that being the day chosen by Mr. Taylor for their annual excursion on the water, the burghmote was postponed till the Saturday morning.

"The vacancies of jurats were, as usual, first filled up, but not in that customary manner of rotation which was so strongly argued by Mr. Thomas Argles in a preceding burghmote. The Tories proposed none but their own friends, and nominated Messrs. Post, Edward Argles, King, and Stacey, omitting several gentlemen of the Whig party, equally as capable and respectable. The opposite party finding themselves thus neglected, and the younger common councilmen shamefully put over their heads, nominated four gentlemen in opposition, who, according to the custom of rotation, ought to have been preferred to three of the others, viz. Messrs Elvy and Stevenson, who were both before Mr. Post, and Messrs. Seager and Edmeads who were immediately after him; and, what is very singular, there are twenty-one gentlemen between Mr. Elvy and Mr. Stacey; how-

ever, the election of the jurats, as was expected, was carried by a majority of the Tories, which gave a general disgust to the freemen: after twelve hours contest, in which every act of bribing, threatening, and cajoling was practised by the ruling party, they could only bring one out of their nine candidates into the common council.

"After the election of the jurats, came on the election of common councilmen, and a very sharp contest ensued. The ruling party nominated Messrs. Blake, Day, Corrall, Poole, Bath, Beaumont, Wimble, Elvy junior, and Burr; the Whigs, Messrs. Green, Moore, Stephen Seager, Mears, Scott, Spratt, Scultup, Cousins, and Smyth; each party exerted every nerve to gain the pre-eminence; but the mayor, recorder, &c., seeing the inevitable downfall of the party, planned the most illiberal scheme that chagrin and malice could devise; that of keeping the poll open till 12 o'clock, then to claim the privileges of the Lord's day, and not close the poll, but adjourn the court till Monday, which scheme was accordingly put in execution. As eight of the opposing party were first upon the poll at 12 o'clock, and no freeman appearing to vote, and the crier of the court having repeatedly proclaimed, '*that, if no person came forward to vote, the poll would be closed;*' if the ruling party had been in the case of their opponents, would not the mayor have closed the poll? The answer is easy,—he certainly would. What inva-

luable benefits would accrue to the nation at large, if the eyes and ears of all its governors were fully and effectually opened; if the baneful mists of ignorance, prejudice, partiality, and self-interest, were no longer able to obscure the sight.

"The next morning, agreeable to their expectations, they found that the opposing party had dispatched messengers to bring in their foreigners, in expectation of the contest being continued on Monday; and what is a convincing proof of this scheme of the ruling party, they had not dispatched a single messenger; but knowing the expense their opponents must now unavoidably sustain, made a proposal that the poll should be closed in the state it then was; which, after some deliberation, was accepted.

"On Monday morning, the nine successful candidates, eight of the opposing party and one of the ruling party, were declared duly elected, and sworn into office."

Thus far our author proceeds—for the reasons we have given before, of avoiding any observations of our own, which might be thought personal to the present members of the corporation, we forbear bringing down the history of that body to the present time; and here for the present we stop.

But before we finally close these preliminary remarks, we must express our anxious and urgent request, to the public at large, whom it inti-

mately concerns, but more particularly those who have an interest in the town, cautiously to examine the ancient principles and practice of our law and constitution, as we have endeavoured to explain them ; attentively to read and consider the charters granted to this place, by which the inhabitants of the town and parish have been incorporated and governed from a very early period. We implore them to trace, step by step, the gradual encroachments made on the rights of the inhabitant householders; and we doubt not that they will then perceive that the present system of the admission of non-resident freemen, and the exclusion of the inhabitant householders, is one entirely of usurpation; and we appeal with confidence to our fellow-townsmen, now acknowledged members of the corporation, each in their several station, to lend a helping hand towards wresting from those who are equally strangers to them and to ourselves, the privileges they usurp, and restoring the franchises of the place in which they live, to those for whom they were originally intended, and from whom they have been unjustly and illegally withheld.

May 1825.

THE CHARTERS

OF

MAIDSTONE.

EDWARD the Sixth, in the third year of his reign, granted a charter to Maidstone, of which the following is a copy. 1548 — 3d Edw. VI.

The First Part of the Patents of the Third Year of the Reign of King Edward VI.

The King to all whom, &c. greeting. Whereas heretofore, by many years past, the government and rule of our town of Maidstone, in our county of Kent, were thought to pertain and belong to certain inhabitants in the same town, commonly called the portreeve and brethren of the town of Maidstone; but now occasion being given of examining the principles and origin of such government and rule of the said town, which town is the chief port of the water of Medway, the same, as we are informed, are *found insufficient in law* to maintain such rule and government; we, by the advice of our most dear uncle and counsellor Edward Duke of Somerset, guardian of our person and protector of our kingdoms, dominions, and subjects, and other our counsellors, being willing to incorporate and erect into one body politic our beloved subjects the *inhabitants* of the said town, for their general and common advantage and utility, do, by these presents, For the inhabitants of the town of Maidstone.

of our special grace, and of our certain knowledge and mere motion, for us and our heirs, ordain, nominate, make and create the honest man Richard Hely, an *inhabitant* within the said town of Maidstone, mayor of the same town, to execute the office of mayoralty of the same town henceforth unto the feast of St. Michael the Archangel next coming, and on the same feast until another person shall be elected mayor of the said town. And also, by these presents, we ordain, nominate, make and create the aforesaid Richard Hely, Richard Basse, John Ippynbury, Robert Gosselyn, William Reve, James Beret, Richard Almon, Richard Hoker, William Grene, Thomas Gore, William Tylden, Peter Mapeston and John Dendley, *inhabitants* within the said town of Maidstone, jurats of the same town; and that every of the jurats aforesaid shall be a jurat of the town aforesaid for the term of *his life*, if it shall so seem good to the mayor and other jurats and *commonalty* of the town aforesaid. And also, of our knowledge and mere motion aforesaid, and by the advice aforesaid, we will and grant, for us, our heirs and successors, that the said mayor and jurats, and the inhabitants in the same town of Maidstone, henceforth in deed and name be and shall be incorporated and created a body politic, by the name of the mayor, jurats and commonalty of the town of Maidstone, in the county of Kent, and them, the *mayor, jurats and commonalty*, one body politic by the name abovesaid, we make, ordain, erect, create, nominate and declare, by these presents really to endure for ever. And further, we will, and for us, our heirs and successors, of our grace, knowledge and mere motion aforesaid, by the advice aforesaid, grant that the limits and precincts of the town aforesaid, as to all and singular the things in our present letters patent contained and specified, extend themselves by the whole town of

Richard Hely created mayor.

Thirteen jurats created.

The mayor, jurats, and *inhabitants* of the town of Maidstone incorporated by the name of the mayor, jurats, and commonalty of the town of Maidstone.

Maidstone, and by the whole parish of All Saints of Maidstone, in the aforesaid county of Kent, for ever. And further, of our grace, knowledge, and mere motion aforesaid, and by the advice aforesaid, we grant to the aforesaid mayor, jurats, and commonalty, and their successors, *that the jurats of the* said town and parish, or the greater part of the jurats of the same town, for the time being, from time to time every year henceforth and hereafter for ever, on the feast of St. Michael the Archangel, may assemble in some convenient place, by them to be assigned at their pleasure, within the said town of Maidstone, and there to nominate and assign two men then being jurats of the said town to the *other persons, inhabitants in the same town and parish, and having lands and tenements of freehold in the same town and parish, in their own proper right for term of their life at least, then in the same place being present,* to the intent and purpose that the said *other persons inhabitants in the said town and parish, and having lands or tenements of freehold aforesaid in the same town then there being present, or the greater part of them, may elect one out of those two jurats so nominated* and assigned, to be nominated and assigned to bear the office of mayoralty of the said town, and to be the mayor of the same town for the year then following: and that he of the said two jurats so nominated and assigned to be nominated and assigned, who by the said other persons so inhabiting and having lands or tenements of freehold in the same town and parish, or by the greater number of the same persons then there present, shall be elected to bear the office of mayoralty of the said town, shall be mayor of the said town, and shall bear the office of mayoralty of the same town, for one whole year then next following, if he shall so long live: and that the same person so to be elected mayor of the said town, and every other person so elected

To assemble on the feast of St. Michael to nominate two jurats, and

thereout to elect a mayor

for one year.

Mayor to take oath, in

to be mayor of the said town, shall take a corporal oath before his last predecessor in the same office, if his same predecessor shall be then surviving and then present in the aforesaid place where the election aforesaid shall be made; and if his predecessor shall be then dead or absent, then before other the jurats of the town aforesaid there present, for the faithful execution and true use of the said office, in like manner and form as the mayor of our city of Canterbury is used to swear. And, moreover, we will and grant to the aforesaid mayor, jurats, and commonalty, and their successors, by these presents, that if, and as often as it shall happen from time to time, that any person being mayor of the aforesaid town and parish shall die during the time in which he shall be mayor of the same town, *or amove* from his office aforesaid, within the year next after his election and admission, that then and so often the jurats of the town aforesaid, or the greater part of the jurats of the said town for the time being, from time to time for ever, at such time which to the same jurats for the time being, or the greater part of them, shall seem good and expedient, may assemble in a convenient place within the town aforesaid, by them assigned at their pleasure, and there nominate and assign two persons then being jurats of the same town to the *other persons inhabiting in the same town and parish, and having lands and tenements of freehold as aforesaid, in the same town as is aforesaid, then and there being present, to the intent and* purpose, that *the said other persons, or* the greater part of them, may elect one out of those two jurats so nominated and assigned, to bear the office of mayoralty of the said town, and to be mayor of the same town, thenceforth unto the feast of St. Michael the Archangel then next following, and on the same feast until another person shall be elected to be mayor of the same town, and that

same form as the mayor of Canterbury.

In case of death or removal,

Provision for electing another mayor.

the said other persons, inhabitants in the said town of Maidstone, and having lands or tenements of freehold in the same town, then and there being present, or the greater part of them, may elect one out of those two jurats so nominated and assigned, to be nominated and assigned to bear the office of mayoralty of the said town, and to be mayor of the said town, from the same time unto the feast of St. Michael the Archangel then next following; and that he of the said two jurats so nominated and assigned, to be nominated and assigned, who by the greater number of the said other persons inhabiting in the said town, and having lands or tenements of freehold in the same, shall be elected to bear the office of mayoralty of the said town, and to be mayor of the same town from thence, shall be mayor of the same town, and bear the office of mayoralty of the same town, from the same time unto the feast of St. Michael the Archangel then next following, and on the same feast until a new mayor in the same town shall be elected; and that the same person so elected, and every person who shall be so elected, as mayor of the town aforesaid, shall take a corporal oath before other the jurats of the same town, then and there being present, for the faithful execution and true use of his said office, in manner and form aforesaid. Also, we will, and for us, our heirs and successors, of our grace, knowledge, and mere motion aforesaid, and by the advice aforesaid, grant by these presents, to the aforesaid mayor, jurats, commonalty, and their successors for ever, that, as often as it shall happen that any jurat of the town aforesaid for the time being shall die or be amoved from the office of jurat of the town aforesaid, that then, and so often, it shall be well lawful to the mayor and jurats of the said town, or to the mayor of the said town, and the greater

In case of death or removal of jurat.

Mayor and jurats to elect a jurat.

part of the jurats of the same town for the time being, from time to time for ever, at such time as to them shall seem good and expedient, in a convenient place by them to be assigned at their pleasure, within the said town and *parish*, to assemble, and there elect and nominate one or more of the *other persons then inhabiting within the same town, and then not being a jurat of the same town*, to be a jurat or jurats of the same town, and that every person so elected and nominated to be a jurat of the said town, from the time of such election shall be a jurat of the same town, if it shall so seem good to the mayor and other jurats and commonalty of the town aforesaid, during his or their life or lives; and that if a crime or other sufficient and notorious fault shall be found in any jurat there, that then the same mayor and other the jurats and *commonalty* of the town aforesaid may amove and expel him from the office of jurat, and another in his stead elect, make, and appoint, *in form aforesaid*. Also, we will, and for us, our heirs and successors, by these presents, grant to the aforesaid mayor, jurats, and commonalty, and their successors for ever, that every mayor of the town aforesaid for the time being, from time to time for ever, whensoever it shall please him, shall nominate, constitute, and elect one honest and fit person to be sergeant at mace in the aforesaid town and parish, from the same time unto the feast of St. Michael the Archangel then next following, and on the same feast until a new mayor of the same town shall be elected, for making, performing, and executing proclamations, processes, arrests, executions, and other things to the office of sergeant at mace pertaining or belonging, within the town and parish aforesaid, in like manner and form as any sergeant at mace in our said city of Canterbury doth and executes; and that the said sergeant at

Power to create jurat.

Mayor to nominate a sergeant at mace annually,

as at Canterbury.

mace so nominated, constituted, and elected, may and shall be able to carry his mace within the limits and precincts of the town aforesaid, from the time of his election until the feast of St. Michael the Archangel then next following, and on the same day until a new mayor of the same town and parish shall be elected lawfully, and [without] the impediment of us, our heirs, and successors; and if, and as often as it shall happen, that any such sergeant at mace shall die or amove from his office before the feast of St. Michael the Archangel next after his election or nomination, that then and so often the mayor of the town aforesaid for the time being, during his mayoralty, shall nominate, constitute, and elect one other person to be sergeant at mace within the town aforesaid, to do and execute in form as is aforesaid, unto the feast of St. Michael the Archangel then next following, and that every person so nominated, constituted and elected, to be sergeant at mace in the said town, may lawfully and with impunity use, exercise, and perform all and singular the things which to the office of sergeant at mace pertain or belong, or which are thought to pertain or belong to the office of sergeant at mace, in form as is aforesaid, from thence unto the feast of St. Michael the Archangel then next following, and on the same feast until a new mayor of the said town shall be elected and sworn. And moreover, of our more abundant grace, certain knowledge, and mere motion aforesaid, and by the advice aforesaid, we will and grant by these presents to the aforesaid mayor, jurats, and commonalty, and their successors, that the same mayor, jurats, and commonalty, and their successors for ever, by the name of the mayor, jurats, and commonalty of the town of Maidstone, in the county of Kent, may plead and be impleaded, prosecute and defend, answer and be answered, in all the courts and places of us, our heirs,

and successors, and other courts and places whatsoever; as well in all and singular causes, actions, suits, and demands, as well real as personal, or mixed, as in all and singular other causes, businesses, and matters whatsoever: and also, that the said mayor, jurats, and commonalty, and their successors for ever, may have a common seal to serve for all and singular their businesses and causes; and the same seal, at their pleasure, to break, deface, and change, and another seal to make, to be their common seal at their pleasure: And, moreover, of our abundant grace, certain knowledge, and mere motion aforesaid, and by the advice aforesaid, for us, our heirs and successors, we will, ordain, and grant, by these presents, that the said mayor, jurats, commonalty, and their successors for ever, be persons fit, and in the law capable to purchase, receive, and take, by the names of the mayor, jurats, and commonalty of the town of Maidstone, in the county of Kent, all the lands, tenements, liberties, privileges, franchises, and jurisdictions underwritten, to have, hold, and enjoy, to them and their successors for ever, or otherwise in any manner howsoever, although they are held of us in chief or otherwise, and this without any other license of us, our heirs, or successors, and without any writ of *ad quod dampnum*, or any other writ for the same, to be sued forth, or had, or used, the statute of not putting lands or tenements to mortmain, or any other statute, act, ordinance, or law to the contrary thereof, passed or made, in anywise notwithstanding: Moreover, know ye, that we, of our more abundant special grace, and of our certain knowledge and mere motion, and by the advice aforesaid, have given and granted, and, by these presents, do give and grant to the aforesaid mayor, jurats, and commonalty, and their successors for ever, *view of frankpledge* of all and singular the *inhabitants and residents*

Power to bring and defend actions.

To have a common seal.

To purchase lands.

View of frankpledge.

within the town and parish of Maidstone aforesaid, in the county aforesaid, and all things which to view of frankpledge pertain or belong, or may pertain or belong, to be *held before the mayor* of the same town for the time being, in a convenient place within the same town, by the mayor of the same town for the time being, to be assigned twice in every year, to wit, *one turn* within a month after the feast of Easter, and the other turn within a month after the feast of St. Michael the Archangel: And also, we give, and, by these presents, grant to the same mayor, jurats, and commonalty, and their successors, assize and assay of bread, wine, and ale, and other victuals, within the town and parish aforesaid, and the amending and correction of those who shall offend, or cause to be done against, the said assize, and full power and authority to hold before the mayor of the aforesaid town for the time being, in a convenient place within the town aforesaid, by the mayor of the same town for the time being, to be assigned a certain court, for three weeks to three weeks, on Tuesday, and in the same court to hold pleas, as well of assize of novel disseisin, and other pleas, actions, and suits whatsoever, in anywise howsoever concerning the messuages, lands, and tenements, being within the town and parish of Maidstone aforesaid, as actions, suits, plaints, and demands whatsoever, as well real as personal or mixed, happening, arising, or accruing, within the said town and parish, or either of them, whether they exceed the sum of forty shillings or not: And also, to hear, try, and determine the same in all things, and by all things according to the law and custom of this kingdom of England, and full execution thereon, to do, perform, and execute, and to make and execute such processes and executions upon the same as is used in the *city of Canterbury:* and to have such fines, and amerciaments in the same as is used in the

Power of assize of bread, &c.

To hold courts.

same city of Canterbury: And also, we give and grant to the aforesaid mayor, jurats, and *commonalty*, and their
Fines. successors, all and singular amerciaments, fines, advantages, and other profits, commodities, and emoluments whatsoever, in the aforesaid view of frankpledge and courts, or any of them, or by reason of either of them, or by reason of the same view of frankpledge, accruing,
Market. arising, or coming: And also, one *market* within the said town of Maidstone, in the place there commonly called the Market-place, every Thursday hereafter for ever, to be held and kept with all stallages, customs, and other
Four fairs. profits to markets belonging: And also, four *fairs* or feasts to be held and kept in the aforesaid town of Maidstone, in such place where the mayor of the same town for the time being, by proclamation thereof made, shall assign the same to be held within the same town; to wit, one thereof to begin every year hereafter, for ever, at noon of the last day of April, and to continue until noon of the second day of the month of May then next following; the other thereof to begin in every year hereafter, for ever, at noon of the day of the vigil of St. Edward the King and Martyr, and to continue until noon of the morrow of the day of the same feast then next following: And the other thereof to begin in every year hereafter, for ever, at noon of the day of the vigil of the feast of St. Faith the Virgin, and to continue until noon of the morrow of the day of the same feast then next following: And the other thereof to begin in every year hereafter, for ever, at noon of the day of the vigil of the feast of the Purification of the blessed Virgin Mary, and to continue until noon of the morrow of the day of the same feast then next following: And all and singular tolls, stallages, and other things whatsoever, arising or growing from the said fairs or feasts and every of them, or by reason of the said fairs or feasts or either of them: And a court of *Pie Powder* in the fairs

and markets aforesaid, and every of them, to be held, and all profits and emoluments, as well of the said court of Pie Powder, as by reason and occasion of the same coming, growing, and arising, to have, hold, enjoy, and receive all and singular the aforesaid views of frankpledge, courts, leets, fines, amerciaments, markets, fairs, feasts, and all and singular the premises, with their appurtenants, appendant and incident, to the aforesaid *mayor, jurats,* and *commonalty,* and their successors for ever, to hold of us, our heirs, and successors, by fealty only, and rendering, therefore, yearly to us, our heirs, and successors, three pounds of lawful money of England at our court of augmentation of the revenues of our crown, at the feast of St. Michael the Archangel yearly, payable for all rents, services, and demands whatsoever for the same or either of the premises, to us, our heirs, or successors, in anywise howsoever, to be rendered, paid, or done, and without account, or any thing for the same to us, our heirs, or successors, to be rendered, paid, or done: And moreover, know ye, that we of our grace, certain knowledge, mere motion, and by the advice aforesaid, and for two hundred and five pounds and four shillings of lawful money of England, to the hands of the treasurer of the court of augmentation of the revenues of our crown, to our use, by the aforesaid Richard Hely and John Dendley, *inhabitants* in the aforesaid town of Maidstone, *and other persons inhabitants in the same town,* paid, whereof we confess ourself to be fully satisfied and contented have given and granted, and, by these presents, do give and grant to the aforesaid mayor, jurats, and *commonalty,* all the late *fraternity or guild of the body of Christ in Maidstone,* in the said county of Kent, now dissolved: And our one messuage, commonly called the *Brotherhood Hall,* situate in Maidstone aforesaid, and our one

garden to the same messuage adjoining, in Maidstone aforesaid, and our one messuage, our one garden, and all those our lands, containing by estimation twenty-eight acres, situate, lying, and being in the said parish of Maidstone aforesaid, and now or late in the possession and occupation of Thomas Broke: And our one messuage, our one garden, and one cart and foot-way, situate, lying and being in Maidstone aforesaid, now or late in the possession, occupation, and use of Robert Gosselyn: And our one messuage, and one curtilege, situate and being in Maidstone aforesaid, now or late in the possession and occupation of Philip Smyth: And our one messuage and one garden, situate, lying, and being in Maidstone aforesaid, now or late in the possession and occupation of David Barham: And our one messuage and one garden, with the appurtenances, situate, lying, and being in Maidstone aforesaid, now or late in the possession and occupation of William Grene: And one messuage, one garden, and all our land, situate, lying, and being in Maidstone aforesaid, now or late in the possession and occupation of Richard Cowdall: And our one messuage, and one garden, situate, lying, and being in Maidstone aforesaid, now or late in the possession and occupation of Thomas Gower: And one cottage, and one piece of land to the same cottage adjoining, lying and being in Maidstone aforesaid, now or late in the possession and occupation of William Kempe: And our one piece of land, containing by estimation three acres, lying and being in Maidstone aforesaid, now or late in the possession and occupation of Nicholas Coveney: And our one cottage and one garden, situated, lying, and being in Maidstone aforesaid, lately demised to farm to one William Little, for a term of years yet continuing: And our two pieces of land, commonly called Hart's Crofts,

lying and being in Maidstone aforesaid, now or late in the possession and occupation of James Catlet, and all our land, with the appurtenances, lying and being in Maidstone aforesaid, now or late in the possession and occupation of Robert Vydnam: And also all our land lying and being in Peckham, in the said county of Kent, now or late in the possession and occupation of Richard Baker: And also nine other cottages, situated and being in Maidstone aforesaid, and in which nine messuages poor persons now dwell;—which same messuages, cottages, gardens and *lands, to the said late fraternity or guild did late belong and appertain, and late were* parcel of the possessions thereof. And also, for the consideration aforesaid, and by the advice aforesaid, we have given and granted, and by these presents do give and grant, to the aforesaid mayor, jurats and commonalty, one chapel or house, commonly called Saint Faith's chapel, and one church-yard, or piece of land, commonly called Saint Faith's church-yard, situate and being in Maidstone aforesaid; and which chapel and church-yard late were parcel of the possessions of the late *College of All Saints of Maidstone* aforesaid; and which messuages, cottages, gardens, lands, chapel, and church-yard, are extended to the clear yearly value of ten pounds seven shillings and four pence. Also, we give, and by these presents grant, to the aforesaid mayor, jurats and *commonalty*, the reversions whatsoever of all and singular the premises; and also the rents, revenues, and yearly profits whatsoever, reserved upon any demises and grants whatsoever, of the premises, or of any part thereof, in anywise howsoever made. And also our woods and underwoods whatsoever of, in, and upon the premises growing and being; to have and to hold all and singular the aforesaid messuages, cottages, gardens, lands, tenements, way, chapel,

church-yard, woods, trees, rents and reversions, with all and singular their appurtenances, to the aforesaid *mayor, jurats,* and *commonalty,* and their successors for ever, to hold of us, our heirs and successors, as *of our manor of East Greenwich,* in the said county of Kent, by fealty only, in free socage, and not in chief, for all services, rents, and demands whatsoever, to us, our heirs or successors, for the same to be rendered, paid, or done. And also, by these presents, we give and grant to the aforesaid *mayor, jurats* and *commonalty,* all and singular the issues, revenues and profits of all and singular the aforesaid messuages, cottages, gardens, chapel and lands, and of other the premises, with their appurtenances, from the feast of Easter, in the second year of our reign, hitherto coming, or growing, to hold to the same mayor, jurats and *commonalty* of our special gift, without account, or any other thing for the same, to us or our heirs, to be rendered, paid, or done. And further, we will, and by these presents, by the advice aforesaid, grant to the aforesaid mayor, jurats and *commonalty* of the town of Maidstone aforesaid, and their successors, that we, our heirs and successors, yearly, and from time to time, will exonerate, acquit and save harmless, as well the said mayor, jurats and *commonalty,* and their successors, as the aforesaid *guild or fraternity,* messuages, lands, tenements, and all and singular other the premises above expressed and specified, with the appurtenances, from all, and all manner of corrodies, rents, fees, annuities, pensions, portions and sums of money, and charges whatsoever, out of the premises, or any part thereof, issuing or payable, or thereupon charged or chargeable, except of the rent and service above by these presents reserved; and except of the demises and grants for term of life, or years of the premises, or any part thereof, made, whereon an ancient

rent or more are reserved; and except of the covenants in such demises; being willing, and by these presents firmly enjoining and commanding as well the chancellor and surveyors-general, and our counsel of our said court of augmentation of the revenues of our crown, as all receivers, auditors, and other officers and ministers whomsoever, of us, our heirs and successors, for the time being, that they, and every of them, upon the sole showing forth *of these our letters patent, or an enrollment of the same,* without any other writ or warrant, from us, our heirs or successors, in anywise howsoever, to be sued forth, obtained, or prosecuted, shall make, and from time to time cause to be made, to the aforesaid mayor, jurats and commonalty, and their successors, full, entire, and due allowance, deduction, defalcation, and manifest discharge of all, and all manner such corrodies, rents, fees, annuities and sums of money and charges whatsoever, out of the premises as aforesaid, issuing or payable, or thereupon charged or chargeable. And these our letters patent, or an enrollment of the same, shall be yearly, and from time to time, as well to the said chancellor and surveyors general, and our counsel of our said court of augmentation of the revenues of our crown, as to all receivers, auditors, and other the officers and ministers whomsoever, of us, our heirs and successors, for the time being, a sufficient warrant and discharge in this behalf. And moreover, by these presents, for us, our heirs and successors, as much as in us lies, we give and grant to the aforesaid mayor, jurats and *commonalty*, and their successors, full power and authority to erect one grammar school in the aforesaid town of Maidstone, and to make fit and wholesome ordinances and statutes in writing, before the feast of Saint Michael the Archangel next coming, concerning the government, direction and order of

Grammar school.

the master of the same school for the time being; and of the wages and salary of the same master, and also the scholars of the same school, and other things touching or concerning the same school. And which ordinances and statutes so to be made, we will from time to time to be inviolably observed for ever. And moreover, we will and grant, for us, our heirs and successors, to the aforesaid mayor, jurats and commonalty, and their successors, that the mayor of the aforesaid town of Maidstone, for the time being, shall have full power and authority to make, exercise, and execute in the aforesaid town and parish, all and singular the things which to the office of *clerk of our market* in anywise howsoever pertain or belong; and that no other clerk of the market, within the limits and precinct of the aforesaid town of Maidstone, in anywise intromit himself. And we will, and by these presents grant, for us, our heirs and successors, to the aforesaid mayor, jurats and commonalty and their successors for ever, that the *mayor, jurats, and their successors, and the greater part of the persons dwelling in the same town, having lands or tenements of freehold, as aforesaid, in the same, as is aforesaid, may have power and authority to make laws, statutes, and ordinances, for the common utility and wholesome government of the persons being in the same town, and to change the same as to them shall seem to be necessary, from time to time, for ever, in as ample manner, condition, and form, as the* mayor, aldermen, *and commonalty of the city of Canterbury* may lawfully do. And that the *inhabitants* of the said town and parish shall obey and observe the same laws and ordinances. And that our intention and purpose may take due effect, and that the said mayor, jurats and commonalty of the aforesaid town may and shall be able the better to maintain and sustain the said school, and

Mayor clerk of the market.

Power to make laws,

as at Canterbury.

the master ministering in the same, and the charges thereof, and also other charges to the same school incumbent or happening—know ye, that we, of our special grace, and of our certain knowledge and mere motion, and also by the advice aforesaid, have granted and given licence, and by these presents, for us, our heirs and successors, do grant and give licence, as much as in us lies, to our beloved the mayor and commonalty of the town of Maidstone aforesaid, and their successors; that they and their successors may and shall be able to purchase, take, and receive, lordships, manors, lands, tenements, rents, reversions, and services, and other premises, rectories, tithes, and heredits whatsoever, and other possessions whatsoever, to the yearly value of ten pounds beyond all charges and reprises of any person or persons whomsoever willing to give the same to them for ever, although the same lordships, manors, lands and tenements, or any part thereof, are held of us in chief, or otherwise, mediately or immediately, or of other persons or person, to have and to hold to them and their successors for ever, to the intent thereof to maintain the school aforesaid; and we have likewise given and granted, and by these presents do give and grant, special licence to the same person or persons, that they may and shall be able to give, grant, bequeath, or assign, lordships, manors, lands, tenements, rents, reversions and services, and other premises, to the aforesaid mayor, jurats and *commonalty* of the said town, and their successors aforesaid, to the yearly value aforesaid, in form aforesaid, without the impediment, impeachment, or grievance of us, our heirs or successors, justices, escheators, sheriffs, coroners, bailiffs, or other the ministers whomsoever of us or our heirs, and without any writ of *ad quod dampnum*, or any other writ, precept, or mandate of us, our heirs or successors, for the premises, or

any of them, in anywise howsoever to be obtained, sued forth, or made, and without any inquisition thereof to be taken, and into our chancery or elsewhere returned. The statute for not putting the lands and tenements to mortmain, or any other statute, act, or ordinance, to the contrary thereof, made, passed, or ordained, or any other thing, cause, or matter whatsoever, in any wise notwithstanding. And we will, and by these presents grant, to the aforesaid mayor, jurats and *commonalty*, and their successors, that they may have, and shall have, these our letters patent, under our great seal of England, in due manner, made and sealed without fine or fee, great or small, to us in our Hanaper or elsewhere, to our use, for the same, in anywise howsoever, to be rendered, paid, or done, although express mention, &c. In testimony whereof, &c. witness the King at Westminster, the fourth day of July.

By the KING himself.

From this charter it appears, as might be expected, that the fraternity established in Maidstone soon assumed to itself some ascendancy and government in the town; but an inference arises from the recital in the charter, that the ascendancy, so gained by the brethren, was an usurpation, and it is expressly stated to be insufficient in law for maintaining the government of the town.

But whatever the former government of Maidstone might have been, this charter purports to introduce a new system of government into the place; and as the municipal government of the shires and boroughs, and the consequent appointment of their superior officers, the shire-reeves and port-reeves, was vested in the crown, as a branch of the executive power, there is no doubt that Edward the Sixth was constitutionally competent to

grant a charter for the general purposes of creating a municipal government within the town, and of directing by whom it should be exercised.

The first object of the charter is to create a corporation in Maidstone; next to appoint a new officer, or at least an officer under the new name of mayor, who is to preside over the corporation. It also appoints a standing body of thirteen of the *inhabitants* of the town, who are to be jurats, (that is, as the name imports, persons sworn,) who are to make bye-laws, and perform other specified functions within the borough.

Incorporation.

Mayor.

Thirteen jurats.

An *inhabitant* is appointed the first mayor, and thirteen *inhabitants* the first jurats.

Then follows the clause of incorporation, which is important as to the present subject of inquiry; and which, consistently with the intention declared in the recital of the charter, of incorporating the *inhabitants*, incorporated the *mayor, jurats, and inhabitants*, by the name of the mayor, jurats, and *commonalty*. As the mayor and jurats are before described as inhabitants, it is in fact simply an incorporation of the *inhabitants*, who are *called the commonalty; from that time therefore to the present the corporation of Maidstone means the* INHABITANTS, *described under the term* COMMONALTY, *unless any subsequent charter, or law competent for that purpose, has made any alteration in either of these respects.*

Considering the mode in which the inhabitants are here incorporated, without any designation of any particular persons as the corporators, and without any provision for selecting any portion of the inhabitants as the corporators, it seems indisputable that the whole body of inhabitants must be taken to be incorporated.

Who could accept the charter but the inhabitants? and who could be the corporators but those who accepted

the charter? it is impossible to doubt that *all* the inhabitants were at first the corporation: and if so, what right had they, or any of their successors, to elect afterwards any select portion only of the inhabitants to form the corporation?

It appears, therefore, perfectly clear, that the king incorporated the *whole* of the *inhabitants:* leaving the law to define who the inhabitants were; which it readily does by ascertaining in the court leet who the free resiants are, and who are there enrolled and sworn. In the case of The King against Amery, 1st Term Reports, 587, Mr. Justice Buller justly stated that "there was a great difference between charters granted in general terms to incorporate the inhabitants, and those which create distinct parts of the corporate body, fill up some of the offices by name, and leave it open to them to elect a number of freemen." And he goes on to observe upon the distinction in that respect taken by Lord Mansfield and Mr. Justice Yates, in the case of the College of Physicians. 4. Burr. 2199.

Annual election of mayor.

The next material clause is that for the annual election of mayor; which provides for his election by such of the *inhabitants* as have, at least, a freehold interest for their lives in lands and tenements in the town and parish—a qualification which no doubt the crown, by its charter, could make requisite for the electors of the mayor, because as the crown could itself appoint that officer, it might grant the power of appointing him to others; and, if so, might of course prescribe the terms upon which such grant should be made, and by whom the power should be exercised. But it must be remembered that this *qualification* is only here required for this particular election, namely, of the mayor; and that it does not affect other elections, the general incorporation of the inhabi-

tants, or their other privileges; indeed, as in this clause, that class of the inhabitants which are freeholders, are particularly described, and they are not so in the general clause of incorporation of the inhabitants, it seems to be assumed that there are persons incorporated as inhabitants, under the name of commonalty, who are not freeholders: and it should be observed that this clause speaks of inhabitants generally, and not of any selected class of freemen, which it could not here have failed to have done, if such a class had in fact existed; and as every inhabitant freeholder would, under this clause, be entitled to vote, as such, in the election of the mayor, without any previous election by the rest of the corporation, and it cannot be supposed they would have that right unless they were members of the corporation; so it is evident that the rest of the inhabitants would be members of the corporation, although under this clause they would not have the right of voting for the mayor without having the additional qualification of being also a freeholder.

Election of mayor on vacancy.

The same observations are equally applicable to the clause for the election of a mayor upon a vacancy.

Election of jurats.

The clause for the election of jurats, on death or removal, gives the election to the mayor and jurats, and makes any *inhabitant* eligible for that office, without restricting it to freeholders. See Rex *v.* Blount, Andrews, 293, and observations post.

Pleading.

Common seal.

Purchasing lands.

The rights of pleading and being impleaded, of having a common seal, and of purchasing lands, are all given to the *commonalty*, that is, as before observed, the *inhabitants;* and the consequence is, that all the property acquired by the corporation under that charter belonged to the *inhabitants*. The same observation may be made as to the fines of the courts, and the profits of the fairs

and markets, all of which also belong, by this charter, to the inhabitants.

Power of making bye-laws.

The power of making bye-laws, which is given to the mayor and jurats, and by express terms limited to the freeholders, omitting the word commonalty, shows also distinctly, that the *freeholders were only a part of the commonalty*, and did not include the whole of the incorporated body of the *inhabitants*.

Frank-pledge.

There is another clause, which grants to the mayor, jurats, and commonalty, *the view of frankpledge*, and which appears to be important. Because, inasmuch as no mode of electing, creating, or admitting the members of the corporation is specified in the charter, some method of defining them must be looked for; and as it is an incorporation of the *inhabitants*, all of whom, of free conditions, owed suit and service at the view of frank-pledge, and were there bound to be enrolled and sworn to their allegiance, it seems that the resiant roll at the view of frankpledge must have been the record of the names of the corporators, the entry on the roll being the act which is now commonly called the admission; and the administering the oath of allegiance, at the view of frankpledge, according to the general law, being the act which is now usually called the swearing-in; for there is no statute or law for administering the oath of allegiance to a freeman, on his admission, but the general common law, which required that oath to be administered in the leet.

1550—5 Edw. VI.

Within two years after the granting of this charter, there are, in the corporation books, entries of *freemen;* but it does not appear that there is any admission or entry of any freemen previous to the charter. As no such class of persons is referred to in it, their origin must be searched for elsewhere: the term "freeman" is well

known to our early laws; the *liberi homines* were a class of persons contradistinguished from the different classes of villeins; there were many modes of making villeins free, as by tenure of freehold lands, possession of goods with the consent of the lord, and by many other acts of the lord, as well as by the villein being enrolled in any privileged town for a year and a day, without claim of the lord, (see charter of William I. Ld. Litt. Hist. Hen. II. Appendix, 1st vol. p. 526, and Glanville 76,) or the villein was made irreclaimably free by a service for seven years with any other person away from the lord; (see the Regiam Magistatem Burgorum, chap. 12, and Kitch. 6, 19, 45, 91, and 103;) and by any other act which was inconsistent with the right which the lord had over his villein. All persons also holding by free tenure, were free by tenure, and those born of free parents, by birth. Besides this general class of freemen, there seems also to have sprung up, before the reign of Edward the Sixth, a class of persons who were made free by guilds, mysteries, and corporations: these were chiefly with respect to trade; and this class appears to differ from the ancient *liberi homines* of the common law, or at least from the citizens or burgesses of cities or boroughs. Thus, in the first chapter of the statutes of Edward the Fourth, for the confirmation of the liberties granted by Henry IV. V. and VI., guilds and fraternities appear to be mentioned as a distinct species of corporation from mayor and commonalty, or sheriffs, or bailiffs and commonalty; an inference which is strengthened by the omission of guilds and fraternities in a subsequent part of the same statute, where cities, towns, and boroughs, and mayors and commonalties, &c. are mentioned.

The statute of the 3d Edward IV. cap. 4. for regulating the importation of certain merchandizes into England,

speaks, in the 4th section, of crafts and mysteries in the cities, boroughs, towns, and villages, and their wardens; and another part of the same section speaks of cities, boroughs, towns, and villages, having no such crafts or mysteries: from which it appears, that these crafts and mysteries were not necessarily parts of the corporations of the cities, boroughs, towns or villages; but, on the contrary, that there were many cities, boroughs, towns, and villages without them.

Persons belonging to these crafts might dwell or inhabit within the places where the crafts were situated or not, according to circumstances; as appears by the statute of 7th Edward IV. as to the worsted weavers of Norwich; and the statute of the 22d Edward IV. 1482, cap. 8, as to the town of Berwick, speaks of the burgesses and freedmen of Berwick as if they were of different and distinct classes.

1551—6 Edw. VI. Among the entries of freemen are these: "Richard Piers, sworn and entered to be a freeman of, &c. before the *mayor, chamberlain, and other of the jurats,* agreeing with the chamber for his freedom.—William Beale, *freeholder,* sworn and entered to be a *freeman of the company of drapers* of this town, before the *mayor, chamberlain, and other of the jurats,* and hath agreed with the chamber for his freedom.

"Richard Huggins,
"Andrew Vydyan,
"Thomas Maplesden,
} Freeholders, took oaths."

The first entry does not state of what Piers was sworn a freeman; little, therefore, can be inferred from that entry.

The next, of Beale, states him to be a *freeholder,* and consequently he was a freeman or *liberi homo* by tenure; it was not, therefore, necessary for him to be made a

freeman, for the purpose of giving him a claim, as an inhabitant, to be of the corporation; but he is admitted a freeman of the company of drapers evidently for the purposes of trade alone, and this, as well as the last admission, was before the mayor, chamberlain, and jurats, no doubt under the authority of the statute of the 14th and 15th Henry VIII. cap. 2, which related to trade, and not to burgesship.

As to the freeholders who took the oaths, it does not appear what the oaths were, by whom they were administered, or at what court or meeting. They being free by tenure, if they were also inhabitants within the borough, would be bound to take the oath of allegiance at the court leet of the borough; which in all probability is the act recorded; and if so, it is their legal admission as burgesses.

Or if they are only admitted into some company or craft, then (as observed before) it only relates to their right of trading, and could not make them burgesses or members of the corporation, notwithstanding the usurpations to that effect which have prevailed in some few boroughs.

The next material document is the *return* of members to Parliament for this borough, of the 6th Edward VI., three years after the granting of the charter by that King, and in the same or following year with the entries mentioned above.

This is said to be the first return for this place; but it does not absolutely follow that it was the first time it returned, because this is the earliest return now extant, inasmuch as there is a considerable interval prior to the reign of Edward VI., during which the parliamentary returns are not now to be found.

This return establishes that the members were then

elected by the *inhabitants*, for the election is stated to be by the *commonalty*, who, it will be recollected, appear by the charter to be the *inhabitants*.

The following is a copy of the return:

"Maidstone. An indenture made between the sheriff, of the first part, and the mayor, jurats, and commonalty, of the second part, who elected Wutton, and Saville, and put their seals."

1553—7 Edw. VI. This return of members to Parliament was disputed in the 7th of Edward VI. as appears by the journals of that time, but not on the ground of their being elected by an improper class of voters, but on the question whether Maidstone was entitled to have burgesses in Parliament or not.

The charter was directed to be perused, and in the mean time the burgesses were to absent themselves from the house. What was the final result of this inquiry does not appear; the perusal of the charter could not in fact have communicated any information upon the subject, as the return of members is not mentioned in it.

It seems, however, that Maidstone did not return members to any of the Parliaments during the reign of Queen Mary; nor in fact till the 5th of Elizabeth, the first Parliament after the grant of that Queen's charter.

Queen Mary, in the fifth year of her reign, upon the ground of Sir Thomas Wyatt's rebellion, who was then lord of the town, as descendant from Sir Henry Wyatt, the grantee of Henry VIII., seized, as it is said, the liberties and charter of this town into her own hands.

1559—2 Eliz. But be that as it may, Queen Elizabeth, in the second year of her reign, granted a new charter "to her subjects *inhabiting* the town and parish of Maidstone;" and appointed, like the charter of Edward VI., an *inhabitant* to be the mayor, and thirteen *inhabitants* to be the jurats.

Mayor. Thirteen jurats.

It then in a similar manner incorporated the mayor, jurats and *inhabitants*, by the same name, of the mayor, jurats and *commonalty*.

The clause also for the annual election of mayor, with the exception of the two words "vel de," which, in order to make the clause intelligible, must be treated as an interpolation), is similar to that in the charter of Edw. VI.; as are also the clauses for the election of a mayor and jurats upon vacancies, and for the appointment of a sergeant at mace. The usual corporate powers, and the view of frankpledge, assize of bread, and the courts, market and fairs, are all granted as by Edward VI.; after which the charter proceeds to enlarge and further describe the jurisdiction of the mayor, particularly making him a justice of the peace for the borough.

Exemption from juries.

Then follows a clause which is material in the present inquiry. The *commonalty* (before shown to be the *inhabitants*) are exempted from serving upon juries out of the town of Maidstone: a privilege which no doubt the crown could grant them on the reasonable consideration of their serving on all juries within the town; because the crown could, by its prerogative, direct at what time and place, and by whom, and within what limits, any jurisdiction should be exercised; and if a limited jurisdiction was established in any particular place, (as by this charter in Maidstone,) whereby all the functions of judicature were to be exercised within the place, for the convenience of the inhabitants, and to the relief of the jurisdiction of the county at large, it was but reasonable that the inhabitants should perform all the duties arising out of such a jurisdiction, and be released from the same duties in the county. But it follows that *all* the inhabitants were subject to this burthen, and entitled to the corresponding exemption: and it is equally clear, upon the principle on

which the exercise of the prerogative is founded, upon the nature of the exemption, and the reason of the thing, that it *could* not be extended to non-residents: consistently with which, this clause confines the exemptions to the commonalty, who are the inhabitants.

This portion of the charter, therefore, like the others, shows that *all* the inhabitants were entitled to the privileges of the charter; and non-residents could not enjoy them.

Members of Parliament.

The clause relating to the election of members of Parliament imports the same; it places the right of election in the mayor, jurats and commonalty; that is, the inhabitants. The wages of the members being chargeable upon the inhabitants, it was but reasonable that they should vote; at all events the express words of the charter so give the right. And a particular class of the inhabitants (namely the freeholders) having been mentioned in a former part of the charter, but omitted here, the inference is, that the *whole of the inhabitants* were actually intended by this clause to be recognized as the electors.

Bye-laws. See clause for making bye-laws in the charter 2 James I.

The clause for making bye-laws does not directly affect the present subject of inquiry; but there is an alteration in it from that of Edward VI. which requires an observation.

In that charter the power is given to the mayor, jurats and freeholders, nothing being said of the commonalty; but in this charter, by substituting, after the words "major juratores," the words "et communitas," instead of "et successores sui," the clause is made to be apparently inconsistent, or tautologous.

It gives the right to the mayor, jurats and commonalty, (which, as observed before, includes all the inhabitants,) and then goes on to add a particular class of the inhabitants, namely, the freeholders, who were before included

in the entire body. It seems difficult to explain this clause, which does not in any other respect purport to vary from that of Edward VI., but by the supposition that the above words were substituted by mistake.

It should, however, be remarked, that there is a striking tautologous expression in the clause, giving the exemption from juries to the mayor, jurats and commonalty, which included all the inhabitants; but nevertheless the clause goes on to add, "*and all the inhabitants*" within the town and parish; respecting which it may be observed, that such tautologous expressions are by no means unusual in charters of that date,* but even if a critical application of every word in the charter is necessary, this passage seems capable of this explanation, that the first terms, "mayor, jurats and *commonalty*," are applicable to all those who had been duly sworn and enrolled at the view of frankpledge; and the other terms, "*all the inhabitants*," may be applied to those who, having become inhabitants subsequently to the last court, were not on that account, or for some other reason, enrolled and sworn.

This, however, does not affect the present question, respecting which it is sufficient to observe, that the clear result of this charter also is, that *all* the *inhabitants* were the corporators under it, and that *non-residents* could not be entitled to its privileges.

For the more perfect information of the reader, and that the accuracy of these observations may be the more easily canvassed, we subjoin a copy of this charter.

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* In a case mentioned in a note in Andrew's Reports, p. 11. it is said, that in a suit in the ecclesiastical court against churchwardens for an account, to which they pleaded that they had passed their account before the minister "and a majority of the inhabitants *and* parishioners," it was held that the plea must be taken to mean parishioners inhabiting in the parish; and is not to be understood disjunctively, which no doubt is the sense of the thing, and the proper manner in which these apparently tautologous passages should be construed.

The Twelfth Part of the Second Year of the Reign of Queen Elizabeth.

Of a grant for the town of Maidstone.

The Queen, to all to whom, &c. greeting: Whereas the rule and government of every people being divided and separated amongst themselves, and by no legal polity reduced into one body, are not kept and exist in so good estate and tranquillity as those whereof the divers members into one body politic, by the force of good laws, are drawn together, united, and consolidated: Therefore, we, by the advice of our dear counsellors, willing that our *town and parish of* Maidstone, in our county of Kent, and our subjects the *inhabitants of our town* and parish aforesaid, as well for their common utility and advantage as for the relief of other our subjects frequenting the same town for transacting their necessary business, because the same town and parish are the chief port of the river Medway, commonly called the Water of Medway, and by the same water have many great advantages, as well by the arriving of merchandize, as by divers other ways and means, and intending that the same *town and parish* may be brought into and hereafter preserved in a better state, as well in building as in good rule, into one body politic will the same to be incorporated and erected; and do, for us, our heirs and successors, of our special grace, and of our certain knowledge and mere motion, ordain, nominate, make, and create the honest man, William Grene, *an inhabitant* within the said town of Maid-

Creation of mayor.

stone, mayor of the same town and parish, to execute the office of mayorality of the same town and parish henceforth, unto the second day of November, commonly called the Commemoration of All Souls, and on and from the same day until another person shall be elected mayor of the said town and parish: And also, by these presents,

we ordain, nominate, make, and create the aforesaid William Grene, William Mowseherste, William Collett, William Filden, James Catlet, Richard Hoker, James Brisbridge, Clement Lutwycke, William Smyth, Ambrose Ippinberye, Nicholas Austen, and Thomas Beale, *inhabitants* within the said town and parish of Maidstone, *jurats* of the same town and parish: And that every of the aforesaid jurats shall be a jurat of the town and parish aforesaid for the *term of his life*, if it shall so seem good to the mayor and other the jurats and commonalty of the town and parish aforesaid: And also, of our grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, we will and grant, for us, our heirs and successors, that the said *mayor, and jurats, and inhabitants*, within the said town and parish of Maidstone, henceforth in deed and name, be and shall be incorporated and created into one body politic, *by the name of the* mayor, jurats, and COMMONALTY of the town and parish of Maidstone, in the county of Kent, and the same mayor, jurats, and commonalty into one body politic, by the name aforesaid, we make, ordain, erect, create, nominate, and declare, by these presents, for ever really to endure: And further, we will, and for us, our heirs and successors, of our grace, certain knowledge, and mere motion aforesaid, and by the advice aforesaid, grant, that the limits and precincts of the town and parish aforesaid, as to all and singular the things to take effect in these our present letters patent contained and specified, extend themselves through the whole town of Maidstone, and through the whole parish of All Saints of Maidstone, in the aforesaid county of Kent, for ever: And further, of our grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, we do, for us, our heirs and successors, grant to the aforesaid mayor,

Jurats.

Corporate name.

Limits of town and parish.

jurats, and commonalty, and their successors, *that the* jurats of the said town or parish, or the greater part of the jurats aforesaid, for the time being, from time to time, every year henceforth and for ever, on the aforesaid second day of November, commonly called the Commemoration of All Souls, may meet in some other convenient place by the time assigned, according to their pleasure, within the said town of Maidstone, and there name and assign *two men, then being jurats of the said town and parish, or of other persons inhabiting in the same town or parish, and having lands or tenements of freehold in their own right, for term of their life at the least, to the intent and purpose that the said other persons so inhabiting in the said town or parish, and having lands or tenements of freehold aforesaid, then there present, or the greater part of them, may elect a man from the same two jurats* so named and assigned, to be named and assigned to bear the office of mayoralty of the said town and parish, and to be mayor of the same town and parish for the year then following: And that he of the said *two jurats so named* and assigned, to be named and assigned, who, by the said other *persons so inhabiting, and* having lands or tenements of freehold, or by the greater number of the same persons then there present, shall be elected to bear the office of mayoralty of the said town and parish, shall be mayor of the said town and parish aforesaid, and bear the office of mayor of the same town and parish for one whole year then next following, if he shall so long live: And that the same person, so elected to be mayor of the town and parish aforesaid, and every other person who shall be so elected to be mayor of the said town and parish, shall take a corporal oath before his last predecessor in the same office, if his same predecessor shall be then living, and then present, in the aforesaid place, where the election afore-

Nomination of two jurats, and election of one as mayor.

Oath of mayor.

said shall be made: And if his predecessor shall be then dead or absent, then before the other jurats of the town and parish aforesaid there present, for the faithful execution and true use of the said office, in the like manner and form as the mayor of our city of Canterbury is used to swear: And moreover, we will and grant to the aforesaid mayor, jurats and commonalty, and their successors, by these presents, that if, and so often as it shall happen, from time to time, that any person, being mayor of the same town and parish, shall *die* during the time in which he was mayor of the town and parish aforesaid, or from his office aforesaid AMOVE within the year next after his election and admission, that then, and so often, the jurats of the said town and parish for the time being, from time to time for ever, at such time which to the same jurats for the time being, or the greater part of them, shall seem good and expedient, may meet in a convenient place, within the town aforesaid, by them assigned at their pleasure, and there name and assign two persons then being jurats of the same town and parish, *other persons inhabiting in the aforesaid town and parish, and having lands or tenements in freehold as is aforesaid, then and there being present, to the intent and purpose that the said other persons, or the greater part of them, may elect one from the same* two jurats so named and assigned, to bear the office of mayoralty of the said town and parish, and to be mayor of the same town and parish, henceforth unto the aforesaid second day of November, commonly called the Commemoration of All Souls, then next following, and on and from the same day, until another person shall be elected to be mayor of the same town and parish: And that the said other persons inhabiting in the said town or parish of Maidstone, and having lands or tenements of freehold, then and there present, or the greater part of them, may elect one from the

Death of mayor.

Nomination of two jurats.

Election of one as new mayor.

same two jurats so named and assigned, to be named and assigned to bear the office of mayoralty of the said town and parish, and to be mayor of the same town and parish from the same time, unto the aforesaid second day of November, commonly called the Commemoration of All Souls, then next following, and that he of the said two jurats so named and assigned, to be named and assigned, who, by the greater number of the said other persons inhabitants in the said town or parish, and having lands or tenements of freehold, shall be elected to bear the office of mayoralty of the said town and parish, and to be mayor of the same town and parish, from the same time, unto the second day of November, commonly called the Commemoration of All Souls, then next following, and on and from the same day until a new mayor in the same town and parish shall be elected: And that the same person so elected, and every person who shall be so elected to be mayor of the town and parish aforesaid, shall take a corporal oath, before the other jurats of the same town and parish then and there present, for the faithful execution and true use of his said office, in manner and form aforesaid. Also, we will, and for us our heirs and successors of our grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, grant, by these presents, to the aforesaid mayor, jurats and commonalty, and their successors for ever, that so often as it shall happen that either of the jurats of the town (*and parish) aforesaid, for the time being, shall *die*, or from the office of jurat of the town (and parish) aforesaid *amove*, that then and so often it shall be lawful to the *mayor and jurats* of the said town, (and parish,) or the greater part (of the jurats) of the town (and parish) aforesaid, for the time being, from time to time for ever, at such time as to them it shall seem

Oath of new mayor.

Death of a jurat.

* *Parish* is here added, not in Edw. VI.

good and expedient, in a convenient place by them assigned at their pleasure within the said town (Edw. VI. and parish) to meet, and there elect or name one or more of the other persons then *inhabiting within the same town,* (or parish,) and then not being jurats of the same town, (and parish,) to be jurats of the town (and parish) aforesaid; and that every person so elected and named to be a jurat of the said town, (and parish,) from the time of such election, shall be a jurat of the same town, (and parish,) if it shall so seem good to the mayor and other the jurats and commonalty aforesaid, during his or *their life or lives.* And that if a crime, or other sufficient and notorious default, in any of the jurats there shall be found, that then the same mayor and other the jurats and commonalty of the town and parish aforesaid may amove and expel him from the office of jurat of the town (and parish) aforesaid, and another in his stead elect, make and appoint, *in form aforesaid.* Also, we will, and for us, our heirs and successors, by these presents, grant to the aforesaid mayor, jurats, and commonalty, and their successors for ever, that every mayor of the town and parish aforesaid for the time being, from time to time for ever, whensoever it shall please him, shall name, constitute, and elect one honest and fit person to *be sergeant at mace* in the aforesaid town and parish, from the same time unto the second day of November, commonly called the commemoration of All Souls, then next following, and on and from the same day until a new mayor of the same town and parish shall be elected, for proclamations, processes, arrests, executions, and other things whatsoever to the office of sergeant at mace incumbent, belonging, or appertaining within the town and parish aforesaid, to be done, performed, and executed in as ample and like manner and form as any sergeant at mace in our city of Canterbury doth and executeth, or can and may be able to do

Choice of a jurat.

Sergeant at mace.

and execute within our same city. And that the said sergeant at mace so named, constituted and elected, may and shall be able to carry his mace within the limits and precincts of the town and parish aforesaid, from the time of his election unto the second day of November, commonly called the commemoration of All Souls, then next following, and on and from the same day until a new mayor of the same town and parish shall be elected and sworn, lawfully and without the impediment of us, our heirs or successors. And if, and so often as it shall happen, that any such sergeant at mace shall die, or from his office aforesaid amove, before the second day of November, commonly called the commemoration of All Souls, next following after his election or nomination, that then, and so often, the mayor of the town and parish aforesaid for the time being, during his mayoralty, shall name, constitute and elect one other fit and honest person to be sergeant at mace within the town and parish aforesaid, to do and execu'e, in form as aforesaid, unto the second day of November, commonly called the commemoration of All Souls, then next following; and that every person so named, constituted and elected to be sergeant at mace in the said town and parish, may and shall be able, lawfully and with impunity, to use, exercise and perform all and singular those things which to the office of sergeant at mace appertain or belong, or which are esteemed to appertain or belong to the office of sergeant at mace, in form aforesaid, thenceforth unto the second day of November, commonly called the commemoration of All Souls, then next following, and on and from the same day until a new mayor of the said town and parish shall be elected and sworn. And moreover, of our more abundant grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, we will and grant, by these presents, to the aforesaid mayor, jurats and

commonalty, and their successors, that the same mayor, jurats and commonalty, and their successors for ever, by the name of the mayor, jurats and commonalty of the town and parish of Maidstone, in the county of Kent, shall and may be able *to plead and be impleaded*, sue and defend, answer and be answered, in all the courts and places of us, our heirs and successors, and other courts and places whatsoever, as well in all and singular causes, plaints, actions, suits and demands, as well real as personal, or mixed, as in all and singular other causes, businesses and matters whatsoever. And also that the said mayor, jurats and commonalty, and their successors for ever, may have a common seal, to serve for all and singular their businesses and causes, and the same seal at their pleasure may break, deface, and change, and another seal make, to be their common seal, at their pleasure. And moreover, of our more abundant grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, for us, our heirs and successors, we will, ordain, and grant, by these presents, that the said mayor, jurats and commonalty, and their successors for ever, be persons able and in law capable to purchase, receive and take, by the names of the mayor, jurats and commonalty of the town of Maidstone, in the county of Kent, all lands, tenements, hereditaments, liberties, privileges, franchises, and jurisdictions, to have, hold and enjoy, to them and their successors for ever, or otherwise in any manner howsoever, although they shall be held of us in chief or otherwise, and this without any other licence of us our heirs or successors, and without any writ of *ad quod dampnum*, or any other thing for the same to be sued forth, or had, or used, the statute of not putting lands and tenements to mortmain, or any other statute, act, ordinance, provision, or law to the contrary thereof passed or made, in anywise notwithstanding. Moreover, know ye, that we, of our more

Power to sue and be sued by corporate name.

Common seal.

To take lands.

abundant special grace, and of our certain knowledge and mere motion, and by the advice aforesaid, for us, our heirs and successors, have given and granted, and by these presents do give and grant, to the aforesaid mayor, jurats and commonalty, and their successors for ever, view of frankpledge of all and singular the inhabitants and RESIANTS within the town and parish of Maidstone aforesaid, in the county aforesaid, and all things which to view of frankpledge pertain or belong, or may pertain or belong, to be holden before the mayor of the town and parish aforesaid for the time being, in a convenient place within the same town, by the mayor of the same town and parish for the time being, assigned twice in every year, to wit, the one time within a month after the feast of Easter, and at the other time (*within a month) after the feast of Saint Michael the Archangel. And also we give, and by these presents grant, to the same mayor, jurats and commonalty, and their successors, assize and assay of bread, wine and beer, and of other victuals, within the town and parish aforesaid, and the amendment and correction of those who shall offend or cause to be done against the assize, and full power and authority to hold before the mayor of the town and parish aforesaid for the time being, in a convenient place within the town and parish aforesaid, by the mayor of the town and parish aforesaid for the time being assigned, a certain court from fourteen days to fourteen days, on Tuesday, and in the same court to hold pleas, as well of assize of novel disseisin, and other pleas, actions, plaints, and suits whatsoever, in anywise howsoever concerning messuages, lands, and tenements, being within the town or parish of Maidstone aforesaid, as any actions, suits, plaints, and demands whatsoever, as well real and personal as mixed, happening,

View of frankpledge.

Assize of bread.

Court.

* These, or some such words, are omitted in the record.

arising, or growing, within the said town and parish, or either of them, although they exceed the sum of forty shillings or not; and also the same in and by all things according to the law and custom of this our kingdom of England, to hear, deduce and determine, and full execution thereupon to do, perform, and execute, and to make, render, and exercise such processes, judgments, and executions thereupon, as is used in our said city of Canterbury; and to have and receive, to their own proper use, such fines and amerciaments in the same as is used in our same city of Canterbury. And also we give and grant to the aforesaid mayor, jurats and commonalty, and their successors, all and singular amerciaments, fines, advantages, and other profits, commodities and emoluments whatsoever, in the aforesaid view of frankpledge and courts, or any of them, or by reason of either of them, or by reason of the same views of frankpledge growing, arising, or coming. And also, one market within the said town of Maidstone, in the place there commonly called the Market-place, on Thursday in every week to be holden and kept hereafter for ever, with all tollages, customs, and other profits to market belonging. And also, *four fairs* or feasts to be holden and kept in the aforesaid town of Maidstone, in such place where the mayor of the same town for the time being, by proclamation thereof made, shall assign the same to be holden, within the same town or parish, to wit, one thereof to begin, in every year hereafter, at noon of the last day of April, and to continue until noon of the second day of the month of May then next following, another thereof to begin, every year hereafter, at the noon of the day of the vigil of the feast of Saint Edmund the King and Martyr, and to continue until the noon of the morrow of the day of the same feast then next following; and another thereof to begin, every year hereafter

Market.

Four fairs.

for ever, at noon of the day of the vigil of the feast of Saint Faith the Virgin, and to continue until the noon of the morrow of the day of the same feast then next following; and the other thereof to begin, every year hereafter, at noon of the day of the vigil of the feast of the Purification of the blessed Virgin Mary, and to continue until noon of the morrow of the day of the same feast next following. And all and singular tolls, stallages, and other things whatsoever issuing or growing from the said fairs or feasts, and every of them, or by reason of the said fairs or feasts, or either of them, and a court of Pie Powder in the fairs and markets aforesaid, and each of them, to be holden, and all fines, amerciaments, forfeitures, profits, and emoluments, as well within the said court of *Pie Powder*, as by reason and occasion thereof coming, growing, and arising. And also, considering and weighing how necessary and fitting it is, that the mayor of the town and parish of Maidstone aforesaid for the time being, and all his successors, mayors of the town and parish aforesaid, should be *justices* of us, our heirs and successors, to keep the peace of us, our heirs and successors, within the liberties of the town and parish of Maidstone aforesaid, and to do, execute, and correct all other the like things within the liberties of the town and parish aforesaid, as and which any justice of the peace of us, our heirs and successors, in the county aforesaid, by virtue of the commission of us, our heirs and successors, may do, execute, correct, or amend, in the body of the county of Kent aforesaid, we do ordain, constitute and appoint, for us, our heirs and successors, the aforesaid mayor of our town of Maidstone one of the justices of us, our heirs and successors, to keep the peace within the town and parish aforesaid, and within the liberties of the town and parish aforesaid, and also to do and execute all other things which to a justice assigned to

Toll.

Mayor to be justice of the peace.

keep the peace of us, our heirs and successors, pertains to be done, within the town and parish and liberties aforesaid, as fully, freely and entirely, and in as ample manner and form, as any justice of us, our heirs or successors, within our county of Kent aforesaid, may or ought to do. And further, by these presents, we will and grant, for us, our heirs and successors, that every mayor of our town and parish of Maidstone aforesaid for the time being hereafter shall be a justice, to keep the peace of us, our heirs and successors, within the town and parish aforesaid; and also to do, treat of, and execute, all and singular other things which to a justice of the peace belong, within the same town and parish, as well for the conservation of the peace of us, our heirs and successors, as for good rule there to be done and executed, as fully and entirely, and in as ample manner and form, as any justice of us, our heirs or successors, in the body of our said county of Kent may or ought to do. And further, of our more abundant grace, certain knowledge and mere motion, and by the advice aforesaid, for us, our heirs and successors, we will and grant, by these presents, to the aforesaid mayor, jurats and commonalty of our town and parish of Maidstone aforesaid, and their successors, that the aforesaid *mayor, jurats and commonalty* of the town and parish of Maidstone, and their successors, *and all the inhabitants* within the town and parish aforesaid, or within the liberties of the same, henceforth for ever, be exempt and exonerated from all and all manner of juries and inquisitions to be returned, had, or taken before any the justices whomsoever of us, our heirs or successors, *except in our said town of Maidstone*, although we, our heirs or successors, be parties in the same juries or inquisitions. And also, we will, and for us, our heirs and successors, grant, that they, or

Exemption from juries;

either of them, shall not be returned or compelled to appear in any such inquisitions or juries, *unless only in those which shall be determined and ended in the aforesaid town of Maidstone.* And for greater security, that the aforesaid mayor, jurats and commonalty aforesaid, and all the inhabitants aforesaid, and every of them, may have and enjoy to themselves for ever this our exemption, according to the form and effect of these our letters patent,

and grant of fine for non-appearance.

we do, for us, our heirs and successors aforesaid, by these presents, of our grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, grant to the aforesaid mayor, jurats and commonalty of the town and parish of Maidstone aforesaid, and their successors, all and all manner of issues and sums of money forfeited or lost to be forfeited or lost by either or any of the inhabitants of the town or parish of Maidstone aforesaid, to be levied by them, or by their minister or ministers for ever, by reason of any forfeiture for not appearing in any such juries or inquisitions taken or to be taken without the town and liberties aforesaid. And moreover, of our grace, certain knowledge and mere motion aforesaid, and by the advice aforesaid, we do, for us, our heirs and successors, by these presents, grant to the aforesaid mayor, jurats and commonalty, and their successors, that they and their successors may have for ever, all and singular goods and chattels waived and estrays happening, growing or arising, from time to time hereafter, within the said town or parish, to be taken and seized by them,

Waifs and estrays.

or by their minister or ministers. And, by these presents, we will, for us, our heirs and successors, that no sheriff of our county of Kent aforesaid, or any other minister of us, our heirs or successors, of our county of Kent aforesaid, in anywise howsoever intromit himself, or themselves, to take such goods and chattels, waifs or estrays, or any part thereof, happening, growing or arising

within the town or parish of Maidstone aforesaid. And also, of our more ample grace, and of our certain knowledge and mere motion aforesaid, and also by the advice aforesaid, we do, for us, our heirs and successors, grant, by these presents, to the aforesaid *mayor, jurats and commonalty* aforesaid, that they and their successors for ever may have authority and power, so often as the Parliament of us, our heirs or successors shall be summoned, to meet in a convenient place by them assigned, at their pleasure, within the said town of Maidstone, and there to elect two fit persons for burgesses of the town and parish of Maidstone aforesaid; and for the said mayor, jurats and commonalty to be at *the Parliament* of us, our heirs or successors, and there, as well for the utility of our kingdom of England as for the advantage and utility of the town and parish aforesaid, to act as it shall be expedient and good; and the names of which persons so elected or to be elected for burgesses of the Parliament of us, our heirs and successors, as aforesaid, we will that the aforesaid mayor, jurats and commonalty, and their successors, shall certify in due manner to the sheriff of us, and our successors, of our county of Kent aforesaid for the time being, and the names of which persons so elected or to be elected, and to the aforesaid sheriff certified, we will that the said sheriff of us, our heirs or successors, of our county aforesaid for the time being shall return to our said Parliament, and that those persons whose names shall be so returned shall be the burgesses of the same town, and members of the said Parliament of us, our heirs or successors. And moreover, of our grace, certain knowledge, and mere motion aforesaid, and by the advice aforesaid, by these presents, we will and grant to the mayor, jurats and commonalty aforesaid, and their successors, that all and singular the liberties aforesaid do extend themselves by the river

Power to choose members of Parliament.

Extent of liberties.

Medway, commonly called the water of Medway aforesaid, from a certain bridge called East Farliegh Bridge, unto a certain place called Hawkwood; and that the aforesaid mayor, and also all and singular the mayors of the town aforesaid for the time being hereafter for ever, may have authority and power, by their sergeant at mace for the time being, to arrest and take, upon any actions, suits, or plaints whatsoever, any person or persons whomsoever, between the limits aforesaid, upon the water aforesaid. And also, that the aforesaid mayor, jurats and commonalty, and their successors, may have full power and authority to survey, correct and reform, in the water aforesaid, all and singular unlawful nets, and also all and singular unfit and unlawful fishings, and all and singular other defects whatsoever, being done, happening to be done, or to happen in the water aforesaid, and within the limits aforesaid, by any person or persons whomsoever, so often as to the aforesaid mayor, jurats and commonalty, and their successors, it shall seem good and expedient, to have, hold, enjoy and receive all and singular the aforesaid view of frankpledge, courts, fines, amerciaments, markets, fairs, feasts, and all and singular the premises, with their appurtenances, appendant and incident, to the aforesaid mayor, jurats and commonalty, and their successors for ever, to hold of us, our heirs and successors, by fealty only, and rendering therefore yearly to us, our heirs and successors, three pounds of lawful money of England, at our exchequer, at the feast of Saint Michael the Archangel, yearly payable, for all services, rents, and demands whatsoever, for the same, or any of the premises, to us, our heirs and successors, in anywise howsoever to be rendered, paid, or done, and without account, or any other thing for the the same, to us, our heirs and successors, to be rendered,

Conservator of the water.

Habendum.

paid, or done. And moreover, by these presents, we do, for us, our heirs and successors, as much as in us lies, give and grant to the aforesaid mayor, jurats and commonalty, and their successors, full power and authority to erect *one grammar school* in the aforesaid town of Maidstone, and to make fit and wholesome ordinances and statutes in writing, before the feast of Saint Michael the Archangel next coming, concerning the government, direction and order of the school-master, and also of the scholars of the same school, and other things touching or concerning the same school; and which ordinances and statutes so to be made, we will to be inviolably observed from time to time for ever. And moreover, we will and grant, for us, our heirs and successors, by these presents, to the aforesaid mayor, jurats and commonalty, and their successors, *that the mayor of* the aforesaid town and parish of Maidstone for the time being may have full authority and power to do, exercise and execute, in the aforesaid town and parish, all and singular those things which to the office of *clerk of our market* in anywise howsoever pertain or belong; and that no other clerk of the market in anywise intromit himself within the limits and precincts of the aforesaid town or parish of Maidstone. And we will, and by these presents grant, for us, our heirs and successors, to the before-named mayor, jurats and commonalty, and their successors for ever, that the mayor, jurats and commonalty, *and the greater part of the persons inhabiting* in the town and parish aforesaid, having lands or tenements of freehold as aforesaid, may have power and authority to make laws, statutes, and ordinances, for the common utility and wholesome government of the persons being in the same town and parish, and the same to change as to them shall seem necessary, from time to time, for ever. And that the inhabitants of the said town

Grammar school.

Clerk of the market.

Power to make laws.

and parish be obedient to and observe such laws and admonitions—And that our intent and purpose may be able to take due effect, and that the said mayor, jurats and commonalty may, and may be able the better to maintain and sustain the said school, and the master or schoolmaster to minister in the same, and the charges of the same, and also other charges to the same school incumbent or happening, know ye, that we, of our special grace, and of our certain knowledge and mere motion, and also by the advice aforesaid, have granted and given licence, and by these presents, for us, our heirs and successors, do grant and give licence, as much as in us lies, to the said mayor, jurats and commonalty, and their successors, that they and their successors may and shall be able to acquire, take, and receive lordships, manors, lands, tenements, rectories, tithes, rents, reversions, services, and hereditaments whatsoever, and other possessions whatsoever, to the yearly value of twenty pounds beyond all charges and reprises of any person or persons whomsoever willing to give or sell the same to them for ever, so only that the same lordships, lands and tenements, or any part thereof, be not held of us in chief, or otherwise, mediately or immediately, to have and to hold to them and their successors for ever, to the intent therewith to maintain the school aforesaid. And likewise, we have given and granted licence, and for us, our heirs and successors, do give and grant special licence, by these presents, to the same person or persons, that they may and shall be able to give, grant, bequeath or assign, lordships, manors, lands, tenements, rents, reversions and services, and other premises, to the aforesaid mayor, jurats and commonalty of the said town and parish, and their successors aforesaid, to the yearly value aforesaid, in form aforesaid, without the impediment, impeachment or

Power to take lands to support school.

grievance of us, our heirs or successors, justices, escheators, sheriffs, coroners, bailiffs, or any other the ministers whomsoever, of us or our heirs, and without any writ of *ad quod dampnum*, or any other writ, precept, or mandate, of us or our heirs or successors, for the premises, or any of the premises, in anywise howsoever, to be sued forth, obtained, or made, and without any inquisition thereof to be taken, and into our chancery, or elsewhere, returned, the statute of not putting lands or tenements to mortmain, or any other statute, act, provision, or ordinance to the contrary thereof, made, passed, or ordained, or any other thing, cause, or matter whatsoever, in anywise notwithstanding; know ye, that we, of our grace, knowledge and mere motion aforesaid, and also by the advice aforesaid, have granted and given licence, and by these presents, for us, our heirs and successors, do grant and give licence, as much as in us lies, to the said mayor, jurats and commonalty aforesaid, and their successors, that they and their successors may and shall be able to acquire, take, and receive, lordships, manors, lands, tenements, rectories, tithes, rents, reversions, services, and hereditaments whatsoever, and other possessions whatsoever, to the yearly value of twenty pounds beyond all charges and reprises of any person or persons whomsoever willing to give or sell the same to them, so only that the same lands and tenements, or any part thereof, be not held of us in chief, mediately or immediately, to have and to hold, to them and their successors for ever, to the proper use and profit of the same mayor, jurats and commonalty of the said town and parish of Maidstone. And likewise, we have given and granted licence, and for us, our heirs and successors, do give and grant special licence, by these presents, to the same person and persons, that they may and shall be able to give, grant, bequeath, sell,

Power to take lands generally.

or assign, lordships, manors, lands, tenements, rents, reversions, services, and other premises, to the aforesaid mayor, jurats and commonalty of the said town and parish, and their successors aforesaid, to the yearly value aforesaid, in form aforesaid, without the impediment, impeachment, or grievance of us, our heirs or successors, the justices, escheators, sheriffs, coroners, bailiffs, or other ministers whomsoever, of us or our heirs, and without any writ of *ad quod dampnum*, or any other writ, precept, or mandate, of us, our heirs or successors, for the premises, or any of the premises, in anywise howsoever, to be sued forth, obtained, or made, and without any inquisition thereof to be taken, and into our chancery or elsewhere returned, the statute of not putting lands and tenements to mortmain, or any other statute, act, or ordinance to the contrary thereof, made, passed, or ordained, or any other thing, cause, or matter whatsoever, in anywise notwithstanding. And we will, and by these presents grant, to the aforesaid mayor, jurats and commonalty, and their successors, that they may have, and shall have, these our letters patent, under our great seal of England, in due manner made and sealed, without fine or fee, great or small, to us, in our Hanaper, &c. Although express mention, &c. In testimony whereof, &c. witness the Queen at Westminster, the fourth day of December.

By the Queen herself, &c.

In the same year (1559) a grant was made of the school-house to the school-master, Ralfe Moore, and his successors; and therein is a reservation to the mayor, jurats and commonalty, and their successors, and to all resiants within the town and parish of Maidstone, the keeping of the two law days in the hall-house, and other the premises, according to the ancient custom.

The next documents are entries which occur, in this and the following year, of the admission of Edward Law and Nicholas Best as freemen of the mercers and artificers companies, which must also be referred, as in the former, to trade. 1560—3 Elizabeth.

The constitution made in the 5th year of Elizabeth at the *burrowmote* (which is one of our oldest courts. See King Edgar's Ecclesiastical Laws, anno 958. Leges Edgar. Will. p. 78) appears to confirm the view taken before of the *liberi homines*, and, to be explained, it prohibits any person (that is, any person not before free by birth, tenure, or service) from being made free; that is, from being recognized as a freeman, and being enrolled and sworn as such, (not from being admitted into the corporation,) unless he pay 20*s*., excepting only freeholders and labourers in husbandry; the former of whom were free by tenure, and the latter by their service. The being enrolled and sworn as a freeman did not absolutely make a person a member of a corporation, but only by consequence, if he were also an inhabitant; the incorporation being in law only an incorporation of the free inhabitants, as villeins were not recognized by the law as *legales homines*. And the fine imposed by this constitution was probably the security which the town took from every person not to their knowledge free by birth, tenure, or servitude, before they incurred the risk, on the one hand, of enrolling and swearing as free the villein of any lord who might proceed against them for so doing; or, on the other, of admitting into their society a stranger for whom they must be responsible. Every person really free they were bound to enrol and swear by the general law; and, therefore, if this constitution is to be taken as generally as the terms import, it was illegal; but if taken as excluding only *strangers*, and *foreigners not known to the town as free*, it is consistent with the general law re- 1562—5 Elizabeth. See Fitz. Nat. Brev. 171.

lating to the swearing and enrolling of freemen, and the prevention of vagrancy.

1563—5 Elizabeth. In this year there was a return of members to Parliament, made by the mayor, jurats and *commonaltie*, according to the charter of Queen Elizabeth. This was the first return for this place after that which was disputed in the 6 of Edward VI., and as the rights of six places to return members to Parliament were at this time disputed, and Maidstone was not one of them, it must be presumed that the question as to the right of this place to send members to Parliament had in some manner been put at rest and determined in favour of the right. Symonde Smythe, gent. elected jurat, refused to serve, and paid five marks for a fine, and was released.

8 Elizabeth, 4 Dec.

A constitution in the 9th year of the reign of Queen Elizabeth appears to be made partly in conformity with the charter of Elizabeth, and partly in violation of it.

The following is a copy of it :—

"The Town and Parish of Maidstone, Constitution, &c. 3d December, 9th Elizabeth. N. Ashton, Mayor, 7 Jurats, and 46 Freeholders.

"Also, it is ordayned and agreed, that none other but such as be *freeholders* in their own right, at the least for term of life, shall *presume* to be at any burrowmote court, or common counsel of this town, &c. or at the election of the mayor at any time hereafter, under payne of two days imprisonment, and the loss of five shillings to the chamber; and this word *freeholders* shall be judged and deemed of *freehold* of land or tenement within the *town* and parish of *Maidstone*, and the said *freeholders to be of the inhabitants* of Maidstone, and free. The steward of the court present, and such lyke officers attending on the mayor, only except."

The exclusion of all but freeholders from the election

of mayor is in conformity with the charter; but the exclusion from the burrowmote exceeds the power conceded to the corporation. The declaration, that they must be inhabitants, is consistent with the charter; and that they must be also free was required by the general law (as stated before), of which this part of the constitution was only declaratory.

Another constitution, of this date, appears also to refer to the same obligation of being enrolled and sworn as freemen, to which every person was bound by law, in the place in which he was residing, within a year and a day, otherwise they were subject to be amerced for their default. 1567—9 Elizabeth.

The following is a copy of it:—

"Constitutions, &c. 12th March, 9th Elizabeth, before mayor, jurats and *freeholders, inter alia.*

"Also, it is constituted, &c., that every person *inhabitant within this town and parish, not being free after one year's tryall,* shall be double charged to every sesse touching the town until they shall become free."

It would be a most monstrous and arbitrary regulation, and contrary to natural justice, if a person was to be subjected to this double charge, if he could not demand his enrolment as a freeman; he could not be subjected to the charge unless he was an inhabitant, because all the powers of the corporation are limited to the town and parish; and if he was an inhabitant, and of free condition, he was both entitled and bound to be sworn and enrolled as such, which explains this constitution, and reconciles it to the charter, to law, and to reason.

There is also a constitution, of this date, of which the following is a copy:— 1569—12 Eliz.

"Court of Burrowmote, 29th March, 12th Elizabeth.—Persons residing out of the parish, *once being free,* shall, upon payment of annual impositions, enjoy their freedom."

This constitution, in its strict words, is also legal, because a person being once made of free condition, by being enrolled in a privileged town, did not lose his freedom by quitting the town; and if he agreed with the corporation, he might be allowed to enjoy the privileges of trading in the town, as a freeman, without being subject to any fine or forfeiture. But if this constitution should be construed to mean, that a person residing out of the parish should still continue to be a member of the corporation, then it is illegal; as being contrary to the charter, which incorporates the inhabitants alone, and as purporting to extend to non-residents some of the privileges granted by the charter, which could by law only be exercised by the inhabitants, as exemption from juries, &c.; and some of the liabilities, as those of being fined and imprisoned, the being compelled to take offices, and to plead only within the town and parish, &c. which could only be enforced against the inhabitants.

This distinction between the freemen and the corporators will be strongly supported by the case of Sir Thomas Walton against Hanger, which will be cited hereafter.

1571—14 Elizabeth.

The constitution of this date goes a great way to show that the freedom of the town which a non-resident was able to retain, was with respect to trade; as it prohibits those that are not free from keeping open shops within the town.

This constitution also marks the distinction between *strangers or foreigners*, and persons born in the town, whose free condition by birth being known to the corporation, they would be admitted without hesitation or risk; but *strangers or aliens*, coming into town, were not to be admitted without some security being given or fine paid, as well to guard against their being claimed as villeins,

as to secure the town from being liable to their acts, or compelled to support them.

The being free, and being one of the body corporate, are also here spoken of as separate things, (which in reality they were,) as strongly marked by some of the entries before observed upon; a non-resident once enrolled as a freeman, being still free, although he would not be one of the body corporate, not being an inhabitant.

It should also be observed, that this constitution would be illegal as being in restraint of trade, if it be not taken with this reasonable addition, that the free inhabitants of the town were entitled to be sworn and enrolled as free; because, otherwise, a person inhabiting there might, by this constitution, be prevented from exercising his trade at all, which is too absurd to be supported. See 11 Co. 8. b. and 53 and 54. See 2d Kyd, p. 131, et seq.

The following is a copy of the constitution upon which we have been observing:—

27th May, 14 Eliz. 1571.

"*Item:* That no person not free of the town, &c. *according to the constitutions and orders of the same corporation, or not born there* naturally, shall keep hereafter open shop, &c. under penalty, until he or they *be free* of the liberties and franchises of the said town and parish, *and one of the body of the said corporation,* or shall be a servant or servants, *according to the laws of this realm,* and usage of the said town and parish, &c. and that it shall and may be lawful to and for the corporation of Maidstone, viz. the mayor, jurats and commonaltie, and their successors, by their officers, to levy the fines, &c."

The same distinction between the freemen and the inhabitants is also apparent in an entry, the date of which is supposed to be about 1575, fourteen years after the 1575—19 Elizabeth.

passing of the statute of 5th Eliz. cap. 4, relating to apprentices, and in conformity to which the entry seems to have been made.

It speaks of the inhabitants being freemen, making them as distinct. There might be inhabitants who were not freemen, as villeins, &c. and freemen who were not inhabitants. In right of the former, a person would, by the express words of the charter, be one of the corporation, if he were, as required by law, of free condition: but not so the latter, if he were not an inhabitant, which would only give him, as a person of free condition, a right to certain privileges in the place in which he was enrolled as such.

It may be very questionable whether the threatened consequence of loss of freedom is legal; for it seems that originally disfranchisement, or expulsion from the decennary, was only resorted to in cases of the grossest misconduct, as for treason, felony, or some infamous crime; and the consequence was, that a person thereby became an outlaw and a vagabond.

The following is a copy of this entry:

"It is furthermore agreed, as before specified, that no *inhabitant being a freeman* within the town and parish of Maidstone, shall take to his servant, in name of apprentice, any manner of such servant, no lesse time than for seven hole yeres, under payne of the loss of the freedom of this towne, as well of the master as of the apprentice that so do attempt the contrary."

"It is also agreed, by condisente aforesaid, that no stranger coming to this towne to *dwell*, whose conversatione is not here well knowne, shall be *made free* of the same towne until he have dwelled one hole yere within the said towne or parish."

The restriction contained in the above entry, as to making strangers, whose conversation was not known in the town, free, falls in with the reason before stated for the imposition of a fine, and confirms the reasonable limitation, before suggested, of confining the operation of the bye-laws, to the exclusion of *strangers*. This regulation is also strictly conformable with our early law, as quoted before from Glanville, and as it is found in all our early law books.

Residence for a year and a day in a privileged place made a person free. The knowledge of the party required by this constitution seems to be for the purpose of guarding the town from the consequences of improperly receiving the villein of any lord who might reclaim him; or a person for whose acts they might afterwards be responsible, or whom they might be called upon to support.

The admission of apprentices in the same year seems to have been done in pursuance of the statute 5th Elizabeth. There were 20 or 30 admitted, and the following is a copy of the entries: the other entries are similar:

"1575, April 16. Robert Harrys, tailor, *apprentice* to William Downe, admitted."

In this year we find the following entries: 1557—21 Elizabeth.

"John Morrys admitted 10th day of March, 1577."

N. B. The words "*general consent*" are used.

"Richard Stour, *clerk, curate of Maydstone and a preacher of Godde's Gospel, admitted.*"

The insertion of the words "*general consent,*" in one of these entries, is sufficient to show that the freemen ought to be admitted by general consent; and the omission of those words in the entry in the following year does not 1578. (as at the best only negative evidence) outweigh the affirmative proof which arises from their being used in the former entry.

The entry in 1578 is as follows:

"John Burgess admitted 24th day of April, 1578."

1579—23 Elizabeth. There is in this year an entry of the admission of Mr. Pettynden, which seems important, and the following is a copy of it:

"Maidstone, the 27th day of October, 1579.—Thomas "Pettynden, gentleman, was admitted, *by general* "*consent*, to be one of the body politic and cor- "poration of the mayor, jurats and commonalty "of the town and parish of Maidstone, in the county "of Kent, AND made and allowed partaker of the "liberties and franchises of the same town and pa- "rish, in all respects and conditions as a *freeman* "thereof should, may, and ought to partake, use, and "enjoy; and his contribution was in consideration "that he had *married with a jurat's widow*, of the "town and parish of Maidstone."

This is a direct admission into the corporation, and is made with *general consent*, and if it were possible to ascertain the fact, it would most probably turn out that Mr. Pettynden at that time became an inhabitant of Maidstone.

Being before a stranger to the corporation, and not an inhabitant in the town, they were not obliged either to allow him to live there, unless he came to his own property, or was a householder; nor were they obliged to assume that he was of free condition; but, as he had married a jurat's widow, in consideration of that circumstance they consent to receive him as a freeman; and if he then became an inhabitant within the town, he was duly admitted to be one of the corporation.

It should also be observed, that this entry seems to treat the admission into the corporation, and the being a free-

man, and enjoying the liberties and franchises of the town, as distinct acts.

In the same year, and on the same day, we find the following entry:

" 27th October, 1579.—Thomas Ford, draper, *late citizen*
" *and alderman of Canterbury*, was admitted, *by ge-*
" *neral consent*, to be one of the body corporate,
" and his charge and contribution was set down and
" *text* at 8*l.* and *was sworn in a freeman.*"

This entry seems to raise the same inference which suggests itself in the preceding case, namely, that he had lately come to reside at Maidstone; by which he had ceased to be a citizen and alderman of Canterbury.

Having been in those capacities, he must have been of free condition; but until he had lived a year and a day in the town, the mayor, &c. were not bound to take notice of that fact; and as it was necessary for a person who claimed, as an inhabitant of any place, the privileges of it, to show that he was of free condition, before Ford could claim to be a corporator, it was necessary for him to be enrolled, and to take the oath of allegiance, as a freeman, in order to constitute him a *liber et legalis homo*, and as such entitled to all the privileges of the place in which he inhabited.

For the recognition of him, therefore, as a freeman, and consequently enrolling and administering to him the usual oath as freeman, before the time the corporation were compelled to do so, he paid a fine, for his charge and contribution, of 8*l.*

There is little or no doubt that the other cases in the corporation books, of this date, will admit of the same explanation.

A son of a Mr. Maplesden, who was the then mayor, was also admitted about this time. The father, being

mayor, was of course free, and the son, therefore, free by birth, being born of a father who was free: the son is properly admitted, as of right, without any fine.

In further confirmation that freemen and members of the corporation were, at the time we are speaking of, *distinct classes*, it should also be observed, that about this time (at least in the 30th year of Queen Elizabeth), in the case of the warden and commonalty of the saddlers' company, 4 Co. 54. it is stated as the custom of London, that a *freeman* AND *citizen* may devise in mortmain; and it is there averred, that the person whose claim was then in question, was a citizen AND freeman; which is consistent with the case of Sir Thomas Walter *v.* Hanger, hereafter cited.

1584—26 Elizabeth. There is a return of members to Parliament for this place by the mayor, jurats and *commonalty*, that is, as observed before, by the *inhabitants*, conformably to the return in the 6th year of King Edward VI. and the charters.

It is made between the sheriff, of the first part, the mayor (by name), eight jurats (by their several names), and twenty-six other names (without any description), of the other part. It witnesseth, "that we the afore-"said mayor, jurats and *commonalty* of the town "and parish aforesaid, have elected Thomas Ran-"dolph and Michael Sandys, &c. and them by us "and for us elected, &c. we give and grant to them, "jointly and severally, power for us to consent, "&c. In witness, we, the mayor, jurats and *com-*"*monalty*, put our seals. Given in the Common "Hall."

1588—30 Elizabeth. The return of members this year is in precisely the same form.

There is a restriction as to practising trades without

being entered as freemen, and the observations made on a like entry, under the date 1571, will equally apply. 1589—31 Elizabeth.

The return of members this year is by the mayor, jurats, and commonalty. 1596—39 Elizabeth.

It is as follows:

"Indenture of, &c. between the sheriff and John Green,
"the mayor, 'jurat *et coitat*,' of the town and parish
"aforesaid, who elect Sir Thomas Fludd and Sir
"John Leveson, knight, who have full powers, &c.
"In witness, &c."

A memorandum in the corporation books of the election of members of Parliament, of this date, we conceive, is, if rightly considered, an important document, with reference to this borough; and if it had been submitted to the election committee which sat upon the return of this borough in 1701, and its import had been understood and duly considered, with reference to the charters, and the entries in the corporation books upon which we have already observed, the right could not, probably, have then been agreed to be in the freemen, but would have been determined to be in the inhabitants. This return appears to have been made at the *court leet*, where the residents or inhabitants are the only suitors; and though it is necessary for the inhabitants to be of free condition to be suitors at that court, yet the inhabitantcy is the qualification which makes them suitors, for a freeman of the town, not an inhabitant, might enjoy some of the privileges of the town, as far at least as related to trade, and with reference to the statutes passed at and before this period, for the regulation of trade, and as recognized in the constitution observed upon before, of 1569; but such non-resident freemen could not be suitors at the court-leet, and therefore could not have voted at this election, which was made at that court. 1600—43 Elizabeth.

The entry we allude to is as follows:—

"Maidstone.—Memorandum that at the Brotherhood-
"hall, by an assembly of the mayor, jurats and com-
"monalty, there at a *leete*, Sir Thomas Fludd and Sir
"John Leveson, knights, were chosen and elected
"burgesses for the Parliament of this town and
"borough."

The return also made upon this election confirms the view before taken of the several documents, and of this particular transaction; as the return is made by the mayor, jurats and *commonalty*, by the further common law description of them, to which we have before alluded, and which is also the proper description of the commonalty, or inhabitants who owed suit-royal at the court-leet, namely, the *free and lawful* men (*liberi et legales homines*) of the borough. The return is in the following form:—

"Indenture—43 Elizabeth—between Heywood, mayor,
"the jurats and *commonalty* of the town and parish
"of Maidstone, being FREE AND LAWFUL MEN *of the*
"*borough and parish aforesaid;* witnesseth that we,
"the said mayor, jurats and *commonalty* aforesaid,
"in common-hall, have elected Sir Thomas Fludd
"and Sir John Leveson, for our town and borough
"&c., and give and grant to them full power in our
"names and stead to appear, &c., and them for us
"and our said borough to do, &c. In witness, &c.
"we, the said mayor, jurats and *commonalty*, put our
"common seal."

The seal is not remaining, but at the foot of the indenture is written, in a coeval hand, these words:—

"p. majore jurat et coitat ville
"Burgi illius, & poch. p d liber et legles."

1603—1 James I. The return, of this date, is also an important document,

inasmuch as it goes one step farther, and describes the persons making the return (that is, those in former returns described as the *commonalty*, being *free* and *lawful* men) under the name of the "*commonalty*, *burgesses* of the town of Maidstone," showing that the free and lawful men of the borough, properly called "burgesses," were meant by the term "*commonalty*," which by the charter means *inhalitants;* that is, according to the ancient law, the inhabitant *householders*—those who sustain the burdens of the place, as paying scot and bearing lot.

The return is as follows:—

"Indenture between the sheriff and the mayor, jurats "and *commonalty*, *burgesses* of the town of Maid- "stone, whose names are in part subscribed; "witnesseth that we, the aforesaid mayor, jurats and "*commonalty*, have elected Francis Fane and "Lawrence Washington, burgesses of the borough "and town aforesaid, to be, &c., have power for "themselves and the said mayor, jurats and *com-* "*monalty*, *burgesses* of the borough and town afore- "said, to do, &c. In witness, &c. we, the mayor, "jurats and commonalty, put our seals."

The return is mutilated, and but one seal remains; it is signed by

"Green, mayor," and there are twenty other names, the last being "Wm. Gull, steward, and others, "to the number of those whose seals are affixed."

In this year King James granted a charter to Maidstone. Although it varies from the charter of Elizabeth in some words, and in some minute particulars, it does not appear to make any essential difference in the constitution of the place. 1603—2 James I.

It speaks in its recital of the *inhabitants* having enjoyed

Recital.

many privileges under the name of the mayor, jurats and *commonalty;* thereby confirming the view before taken of the previous charters, namely, that they were incorporations of the *inhabitants* under the name of *commonalty;* and establishing that they had, under the former charters, actually enjoyed the privileges that were granted; thus proving an actual usage, at the same time that it shows in what manner the King then construed the charter in this respect, notwithstanding the doubts which are afterwards stated to have existed as to its construction in other respects. What these disputes were is not perhaps material, and does not now distinctly appear.

With reference to the general history of the borough, it seems probable that discussions were then raised, whether the "*inhabitants*" of a place could or could not be incorporated. At least this point was mooted in the Dungannon case, (12 Co. 120, and Hobart, page 21 of the edition of 1641,) in the 12 James I. ten years afterwards; and it is probable that the doubt in the recital of this charter, as to the validity of the incorporation, might be referable to that question.

Incorporation.

The clause of incorporation of the mayor, jurats and *commonalty*, having, for the first time, the addition of the words, "moreover the inhabitants," seems to support that supposition; for, as by the clearest construction of the words of the former charter, the terms *inhabitants* and *commonalty* appear to have been convertible, so the addition to the word commonalty (which before included the inhabitants) of the emphatic expression, "*moreover the inhabitants,*" seems strongly to indicate that some doubt has existed as to the meaning, or application, or extent of the word commonalty.

But whatever doubt that might have been, *the words are here expressly extended so as to include all the inhabi-*

tants without any possibility of doubt: although such explanation does not appear to make any essential difference in the constitution of the borough, but to be simply explanatory: leaving the corporators the same body as they were before; and again describing all the body of the inhabitants by the corporate name originally used, of the mayor, jurats and *commonalty*.

The ordinary corporate powers are again given to that same body, and the bounds of the town and parish are declared to be the same as before: Thirteen of the *inhabitants* are to be jurats, and one of the jurats to be *mayor*, though not in the form, yet to the same effect, as the charter of Elizabeth. Mayor and thirteen jurats.

The clause which gives the power of making the bye-laws (a matter, as before observed, not directly affecting the present inquiry,) differs from the corresponding clause in the charter of Elizabeth; because there the interpolation already observed upon makes the passage tautologous and ambiguous: and probably this was another of the things intended to be corrected by this charter; for here the doubt is removed; the power is not given to the mayor, jurats and commonalty, (that is all the inhabitants generally,) but such of the commonalty (that is, of the inhabitants) who are freeholders for life, and freemen of the town: making those two things necessary qualifications for voting in the enactment of bye-laws: but still, by obvious construction, confining this power to such freeholders and freemen *as were inhabitants*. Bye-laws.

The qualification of being freemen does not appear to make any essential difference in this clause: because, as before observed, the former charters, when they incorporated the inhabitants, under the name of commonalty, meant, by clear legal construction, only the *free inhabitants*,

that is, the inhabitants who had been duly enrolled as free, and sworn as such.

To speak of freeholders being free appears at first sight to be tautologous, because every freeholder was free by tenure; but the words here are, "free of the town," which means being recognized in the town as free, and enrolled there as such: so that the effect of this clause is to give the power of making bye-laws to the mayor, jurats, and such of the enrolled free inhabitants as had freeholds for life, which it is conceived was also the proper construction of the former charters.

This clause is rather more full than those in the former charters, inasmuch as that it requires, amongst other things, by a *quorum proviso*, that the mayor shall be at the meeting.

First mayor and jurats.

The first thirteen jurats and the first mayor being named, as in the charter of Elizabeth, the next clause provides for the annual election of the mayor, directing that *two of the jurats or of the commonalty* and freemen, having freeholds, shall be nominated by the jurats; and of the two so nominated, the rest of the jurats and *commonalty* being freemen and freeholders, should elect one: in nothing, as it appears, according to the construction before adopted, altering the charter of Elizabeth, but only more effectually explaining it.

Annual election of mayor.

Election of mayor on vacancy.

The clause for electing a mayor upon a vacancy differs a little from that in the charter of Elizabeth, which directs the election to be in the same manner as the annual election, namely, by the previous nomination of two, out of whom one is to be elected: but this charter gives a direct power to the jurats and commonalty, being freemen and freeholders, to elect one of themselves to be mayor.

Deputy mayor.

A power of appointing a deputy in case of sickness, or necessary absence, is given to the mayor.

The *election* of jurats in cases of vacancy is given, as in Elizabeth's charter, to the jurats; but the persons *eligible*, instead of being described as in that charter merely as *inhabiting* in the town, are expressly required also to be free, and to have freeholds: the being free was no doubt requisite by law under the charter of Elizabeth, because nobody but a *free inhabitant* could by law be eligible to such an office: but the qualification of freehold is certainly altogether an addition. Election of jurats on vacancy.

The qualification of being a freeman and freeholder is also required of any inhabitant who is one of the justices. Justices.

Towards the close of the charter there is a general clause of confirmation of all former grants, and as no intention is expressed in this charter of James of altering the charter of Elizabeth, and there is this general clause of confirmation, it seems clear that the proper rule, in construing them both, is to make them mutually explain each other, and, if possible, to reconcile them, and let them stand together. Confirmation.

The confirmation is expressly extended to the liberty of electing burgesses to Parliament: the charter of Elizabeth purported to give that right to the mayor, jurats and *commonalty*, without any restriction; that charter therefore extends to all the free inhabitants; and as they exercised the right before the charter of James, that King could not, by his charter, abridge, alter, or limit their right. See the Chippenham case, Glan. page 54, and 4th Instit. page 48: and in fact the King did not attempt to alter it, but leaves the privilege to be exercised as it was before.

The general conclusion therefore must be, that this charter also continues the incorporation of the *inhabitants*

at large, under the name of *commonalty*, although, for some particular purposes, and for some elections, it requires the additional qualification of a freehold.

1603—2 Jac. I. 21 January.

In the petition to the crown for a new charter, in 1743, (16 Geo. II.) it is said that a bye-law was made under this charter, whereby it was agreed by the mayor and jurats, at a *burghmote court* then held, that they would not proceed to the election of a jurat, without the assent and liking of twenty freeholders, freemen of the town, until a common council, intended to be elected, should subsist; and then not without the assent of the major part of them.

The following is a copy of the charter of the second year of King James I.

The Seventeenth Part of the Patents of the Second Year of the Reign of King James.

Of a grant for the mayor, jurats and commonalty of the town of Maidstone, to them and their successors.

The King, to all to whom, &c., greeting. Whereas the town in our parish of Maidstone, in our county of Kent, is an ancient and populous town, and whereas the *inhabitants* of the same town and parish, by virtue or colour of certain charters and letters patent, of divers of our ancestors or progenitors, Kings or Queens of England, or of prescriptions or customs, *by the name* of the *mayor, jurats and commonalty* of the town and parish of Maidstone, in the county of Kent, or by whatsoever other name or names, have had and enjoyed, or at least have claimed, or pretended to have and enjoy, divers liberties, jurisdictions, franchises, pre-eminences, and immunities: And whereas also certain doubts, questions and ambiguities have been lately moved and stirred, as well concerning the validity and efficacy, in law, of the *incorporation* afore-

said, as concerning the true name of the same: And also concerning the government of the same town and parish, we willing that hereafter for ever, all strife, discord, question, ambiguity, and doubt concerning the premises, be henceforth altogether removed: And also, willing that hereafter for ever, in the same town and parish there may be continually had one certain and undoubted mode of and for the election of the mayor, jurats, and other the officers and ministers in the same town and parish to be elected, and of and for the keeping of our peace, and the good rule and government of the people there, and that the town and parish hereafter for ever may be and remain a town and parish of peace and quietness, to the dread and terror of the evil, and reward of the good, and that our peace, and other acts of justice there, without further delay, may be kept, of our special grace, and of our certain knowledge and mere motion, have willed, granted, ordained, constituted, and declared, and by these presents, for us, our heirs and successors, do will, grant, ordain, constitute, and declare, that the said town and parish of Maidstone, in our county of Kent, be and remain hereafter for ever *a free town and parish* of itself: And that *the mayor, jurats and* COMMONALTY of the town and parish of Maidstone aforesaid, *and their successors,* Free town. *and also the* INHABITANTS *of the same town and parish,* by whatsoever name of incorporation, or by whatsoever names of incorporation they have heretofore been incorporated, and whether they have been heretofore incorpo- Incorporation. rated or not, hereafter for ever, be and shall be one body corporate and politick, in deed, fact, and name, by the *name* of *the mayor, jurats and commonalty* of the King's town and parish of Maidstone, in the county of Kent, and them by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the

county of Kent, one body corporate and politick, in deed, fact, and name, really and fully, we do, for us, our heirs and successors, erect, make, ordain, constitute, create, confirm, and declare, by these presents: and that by the same name they may have *perpetual succession:* And that they, by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, be and shall be, at all future times for ever, persons able and in the law *capable*, and a body corporate and politick, and in the law capable to have, acquire, receive, possess, enjoy, and retain lands, tenements, liberties, privileges, jurisdictions, franchises, and hereditaments of whatsoever kind, name, nature, quality, or sort they shall be, to them and their successors, in fee and perpetuity, or for term of life, or years, or otherwise in any manner howsoever; and also goods and chattels, and other things whatsoever, of what kind, name, nature, quality, or sort soever they shall be: And also, *to give, grant, demise,* alien, assign and dispose of lands, tenements and hereditaments, and to do and execute all and singular other deeds and things, by the name aforesaid; and that, by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, they may and shall be able *to plead and be impleaded,* answer and be answered, defend and be defended in any courts and places whatsoever, and before any judges, and justices, and other persons, and officers whomsoever, of us, our heirs and successors, in all and singular actions, pleas, suits, plaints, causes, matters, and demands whatsoever, of whatsoever kind, name, nature, quality, or sort they may or shall be, in the same manner and form as any other our liege subjects of our kingdom of England, persons able, and in the law capable, or any other body corporate and politick within

Capable.

our kingdom of England, may or shall be able to have, acquire, receive, possess, enjoy, retain, give, grant, demise, alien, assign and dispose of, plead and be impleaded, answer and be answered, defend and be defended, do, permit or execute: And that the mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, may have *for ever a common seal*, to serve for doing the causes and businesses whatsoever of them and their successors. And that it may and shall be lawful Seal. to the same mayor, jurats and commonalty, and their successors, the same seal at their pleasure, from time to time, to break, change, and make anew, as to them it shall seem better to be and to be done. And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and com- Bounds. monalty of the King's town and parish of Maidstone, in the county of Kent, and their successors, that the aforesaid town and parish of Maidstone, and the liberties and precincts of the same, hereafter for ever, do extend themselves and reach, and may and shall be able to extend themselves and reach, as to all and singular the things to take effect in these our present letters patent contained and specified, to such and the like metes, limits and bounds as heretofore they have been accustomed to extend and reach. And further, we will, and by these presents, for us, our heirs and successors, grant and ordain, that hereafter for ever, there be and shall be, within the town and parish aforesaid, *thirteen of the inhabitants* of the same town and parish to be elected in form in these presents hereunto mentioned, who shall be and shall be called *jurats* of the town and parish aforesaid. And that likewise there be and shall be *one* of the *same jurats*, (in form hereunder in these presents to be elected) who shall be and shall *be called the mayor* of the King's

Thirteen inhabitants, jurats.

One jurat, mayor.

town and parish of Maidstone: and which jurats, not being in the office of mayor of the town and parish aforesaid, shall be from time to time assisting and aiding the mayor of the said town and parish for the time being in all causes and matters touching or concerning the said town and parish. And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid *mayor, jurats and commonalty* of the King's town and parish aforesaid, and their successors, THAT the mayor, jurats and *commonalty* of the town and parish aforesaid, for the time being, *having lands or tenements of freehold in their own right for term of their life, within the town and parish aforesaid, and being freemen of the same town and parish, assembled,* (upon public summons for this purpose thereof to be made,) may have and shall have full power and authority to frame, constitute, ordain and make, from time to time, any reasonable *laws,* statutes, constitutions, decrees and ordinances in writing whatsoever, which to them, or the greater part of them, (*of whom the mayor of the town and parish aforesaid for the time being we will to be one,*) shall seem to be good, wholesome, useful, honest, and necessary, according to their sound discretions, for the good rule and government of the town and parish aforesaid, and of all and singular the officers, ministers, artificers, inhabitants and residents whomsoever, within the town and parish aforesaid, and the liberties of the same, for the time being. And for declaring in what manner and order the same mayor, jurats and commonalty of the town and parish aforesaid, and all and singular the officers, ministers, BURGESSES, artificers, inhabitants, and residents of the town and parish aforesaid, shall conduct, behave and use themselves in their offices, functions, ministries, arts, and businesses within the town and parish aforesaid, and

Bye-laws.

the liberties and precincts of the same, for the time being, for the further public good, common utility, and good rule of the town and parish aforesaid, and the victualling of the same town and parish; and in other things and causes whatsoever, in anywise howsoever touching or concerning the town and parish aforesaid: And that the same mayor, jurats and commonalty of the town and parish aforesaid for the time being, or the greater part of them (of whom the aforesaid mayor of the town and parish aforesaid for the time being we will to be one,) as often as they shall make, frame, ordain and establish such laws, institutions, ordinances and constitutions, in form aforesaid, may and shall be able to make, ordain, limit and provide such and such sort of pains, *punishments and penalties*, by imprisonment of the body, or by fines and amerciaments, or by either of them, against and upon all offenders against such laws, ordinances and constitutions, or either or any of them, as and which to the same mayor, jurats and commonalty of the town and parish aforesaid for the time being, or the greater part of them, (of whom the aforesaid mayor of the town and parish aforesaid for the time being we will to be one,) shall seem to be more necessary, fitting and requisite for the observance of the same laws, ordinances and constitutions, and the same fines and amerciaments to levy and have to the use of the aforesaid mayor, jurats and commonalty of the town and parish aforesaid, and their successors, without the impediment of us, our heirs or successors, or either or any of the officers or ministers of us, our heirs or successors, and without any account to us, our heirs or successors, to be rendered for the same; all and singular which laws, ordinances and constitutions so (as aforesaid) to be made, we will, for us, our heirs and successors, to be observed, under the pains in the same to be contained: so

nevertheless, that such laws, ordinances, constitutions, imprisonments, fines, and amerciaments be reasonable, and not repugnant nor contrary to the laws, statutes, customs or rights of our kingdom of England: And for the better execution of our will and grant in this behalf, we have assigned, nominated, created, constituted and made, and by these presents, for us, our heirs and successors, do assign, nominate, create, constitute and make,

Thirteen first jurats.

our beloved James Francklyn, Gabriel Green, Edward Maplisden, John Tremlyn, esquires; John Romney, Stephen Heeley, John Greene, William Plomer, Richard Highwood, Walter Fysher, Thomas Greenevile, Richard Maplisden and Thomas Sywnhogg, *now holding or exercising the places or* offices *of jurats* of the town and parish aforesaid, to be the present thirteen jurats of the town and parish aforesaid, to be continued in the same offices during their several natural lives, unless in the mean time, for misgovernment or misbehaving themselves in that behalf, or for any other reasonable cause, from the same offices they, or either of them, shall be amoved: Also, we have assigned, nominated, created and constituted, and by these presents, for us, our heirs and successors, do assign, nominate, create, constitute and make, the afore-

First mayor.

said Edward Maplisden, now holding *or exercising the office of mayoralty of* the town and parish aforesaid, to be the *present mayor* of the town and parish aforesaid; willing that the same Edward Maplisden shall be and continue in the office of mayoralty of the town and parish aforesaid, from the date of these presents, unto the *second day of November*, commonly called the Commemoration of All Souls, next following, if the same Edward shall so

Mayor; election by jurats.

long live: And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty of the King's town and

parish aforesaid, and their successors, *that the jurats of the said town* and parish, or the greater part of the jurats aforesaid, for the time being, from time to time *every year* henceforth and hereafter for ever, on the aforesaid second day of November, commonly called the Commemoration of All Souls, *may assemble in some convenient* place within the said town of Maidstone, and there may and shall be able to nominate and appoint *two men* then being jurats of the said town and parish, *or other persons being* of the commonalty *and freemen* of the aforesaid town and parish, and having a freehold within the town or parish aforesaid, as is aforesaid, *to the intent* and purpose that the *rest of the jurats* and *commonalty of the said town or parish*, and then *likewise being freemen, and seized in their demesne, as of freehold of or in lands or tenements, as* aforesaid, then there present, or the greater part of them, elect and may be able *to elect one of* the same two, so named and appointed, to be named and appointed to be mayor of the town and parish aforesaid for one whole year then next following: And that after the aforesaid two men shall be so, as aforesaid, nominated and appointed, it may and shall be *lawful to* the rest of the *jurats and commonalty of the said town* and parish so as aforesaid, *being freemen and seized, as aforesaid,* of lands and tenements, or the greater part of them, *to elect* and appoint one of the same two men so named and appointed to be mayor, and for mayor of the town and parish aforesaid; and that he of the said two men so, as aforesaid, elected and appointed, before he be admitted to the execution of his office aforesaid, shall take a corporal *oath* before the then last mayor, his predecessor, or, in his absence, before any two jurats of the town and parish aforesaid for the time being, well and faithfully to execute his office of mayor of the town and parish aforesaid, in all things touching the same office,

Two jurats.

and that after such oath aforesaid so taken, he may and shall be able to execute the office of mayor of the town and parish aforesaid for one whole year then next following the election aforesaid, if he shall so long live; unless in the mean time, for some reasonable cause, from the same office he shall be amoved. And moreover, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that if it shall happen that the mayor of the town and parish aforesaid for the time being, at any time within one year after he shall be so, as aforesaid, elected, sworn, and appointed to the office of mayor of the town and parish aforesaid, shall *die*, or from the same office shall be *amoved*, that then and so often it may and shall be lawful to the *jurats and such others of the commonalty* of the said town and parish, *being freemen* of the town and parish aforesaid, and *having lands or tenements of freehold so as aforesaid*, within the town and parish aforesaid, or the greater part of them, to elect, appoint, and nominate ONE OTHER FROM THEMSELVES, to be mayor of the town and parish aforesaid, according to the ordinances and provisions in these presents above declared; and that he who shall be so elected, appointed and nominated to the office of mayor of the town and parish aforesaid, shall have and exercise the office of mayor of the town and parish aforesaid, during the residue of the same year, having first taken a corporal *oath* in form aforesaid, and so as often as the case shall thus happen. And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty of the town and parish aforesaid, and their successors, that if it shall happen that *the mayor* of the town and parish aforesaid for the

In case of mayor's death or amotion.

Mayor sick or absent, one of jurats deputy.

time being, shall so labour under *sickness*, that he cannot attend the necessary businesses of the town and parish aforesaid, *or from the town* aforesaid, for any reasonable cause, *shall depart, that* then and so often it may and shall be lawful to the mayor of the town and parish aforesaid for the time being, to make, constitute, and substitute, from time to time, *one of the jurats* of the town and parish aforesaid, to be the *deputy* of the same mayor for the time being so labouring under sickness, or for any reasonable cause absent, to continue in the same office of deputy mayor of the town and parish aforesaid, in the *absence* or *sickness* of the mayor of the town and parish aforesaid for the time being, during the pleasure of the same mayor of the town and parish aforesaid for the time being: And which deputy mayor of the town and parish aforesaid, so as aforesaid, to be deputed and constituted to be deputy mayor of the town and parish aforesaid for the time being, may and shall be able to do and execute all and singular those things which to the office of mayor of the town and parish aforesaid, within the same town and parish pertain, and ought to pertain, to be done and executed during the pleasure of the mayor of the town and parish aforesaid for the time being, in the absence or sickness of the same mayor for the time being. And moreover, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that hereafter for ever there be and shall be, in the town and parish aforesaid, one officer or two officers, who shall be and shall be called *sergeant* or *sergeants at mace*, to serve in the court of the town and parish aforesaid, and for proclaiming, arresting, and executing the processes, mandates, and other businesses to the office of sergeant at mace in

Sergeant at mace.

the town and parish aforesaid, and the limits, bounds and precincts of the same, from time to time pertaining, to be performed and executed; and which sergeant or sergeants at mace, so appointed, nominated, and elected by the aforesaid mayor of the town and parish aforesaid for the time being, shall be attending from time to time upon the mayor of the town and parish aforesaid for the time being; and that the aforesaid sergeant or sergeants at mace, so as aforesaid to be elected and nominated, shall be in due manner *sworn* well and faithfully to exercise their office aforesaid before the mayor of the town and parish aforesaid for the time being; and that, after such oath so taken, they may and shall be able to execute and exercise the same office during the pleasure of the mayor of the town and parish aforesaid for the time being. And further, we will and ordain, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty of the town and parish aforesaid, and their successors, that the aforesaid sergeant [or sergeants] at mace, to be deputed in the town and parish aforesaid, shall bear and carry, everywhere within the said town and parish, and the precincts of the same, before the mayor of the town and parish aforesaid, one or two *gilt or silver mace or maces*, and engraven with the sign of the arms of us, our heirs and successors. Also, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty, and their successors for ever, that so often as it shall happen *that any* JURAT *of the town and parish aforesaid for the time being shall die*, or from his office of jurat of the town and parish aforesaid for any reasonable cause be *amoved*, that then and so often it may and shall be lawful to *the mayor and jurats* of the said town and parish for the time being, or the greater part

Maces.

If jurats die or amove, election of

of them, from time to time for ever, at such time as to them shall seem good and expedient, to assemble in a convenient place by them to be assigned at their pleasure, within the said town, and there to elect and nominate *one* or more other person or persons *being of the commonalty* of the same town or parish, and THEN INHABITING within the same town or parish, *being free men* of the town and parish aforesaid, and *there having* FREEHOLDS as aforesaid, *and then not being* jurats of the same town and parish, to be jurats of the town and parish aforesaid; *and* that every person so elected and nominated to be a jurat of the said town and parish, from the time of such election shall be a jurat of the same town and parish, if it shall so seem good to the mayor and other jurats and commonalty aforesaid, during his or their life or lives, and that if a crime or other sufficient and notorious fault shall be found in any jurat there for the time being, that then the same *mayor and other the jurats and commonalty of the town and parish aforesaid*, being freemen, *and having lands or tenements* of freehold as aforesaid, or the greater part of them then happening to be present, may AMOVE AND EXPEL him from the office of jurat of the town and parish aforesaid, and another in his stead elect, make, and appoint, in form aforesaid, for ever. And further, of our more abundant special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, we have granted, by these presents, that the aforesaid mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, may have full power and authority to hold before the mayor of the town and parish aforesaid for the time being, in a convenient place, within the town aforesaid, by the mayor of the town and parish aforesaid for the time being to be assigned, A CERTAIN COURT, from fourteen days to four

One of commonalty inhabitants, freemen.

Power to amove jurats.

Court of record, from fourteen days to fourteen days.

teen days, on Tuesday, and in the same court to hold pleas, as well of assize of novel disseisin, and other pleas, actions, plaints, and suits whatsoever, in anywise howsoever concerning messuages, lands and tenements being within the town or parish of Maidstone aforesaid, as any actions, suits, plaints, and demands whatsoever, as well real and personal as mixed, hereafter happening, arising, or growing within the said town and parish, or either of them, although they may exceed the sum of forty shillings or not, as heretofore they have used and been accustomed, or lawfully might or could use within the town and parish aforesaid; and also the same in all things, and by all things, according to the law and custom of this our kingdom of England, to hear, deduce, and determine, and full execution upon the same to make, perform, and execute; and to make, render and exercise such processes, judgments, and executions thereupon, as is used in our city of Canterbury, and to have, and receive, to their own proper uses, such sorts of, and the *like fines* and amerciaments in the same as is used in our said city of Canterbury, and as heretofore in the same town and parish hath been used and accustomed. And further, of our more ample special grace, and of our certain knowledge and mere motion, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, that the mayor of the town and parish aforesaid, so long as he shall happen to be in the office of *mayor* of the town and parish aforesaid, the *steward* or recorder of the town and parish aforesaid for the time being, and one of *the jurats* of the same town and parish for the time being, *or of other the inhabitants of the same town and parish, being freemen of the said town and parish,* and having there *a freehold* as aforesaid,

Justices; mayor, steward, one of jurats, or inhabitants.

by the aforesaid mayor and jurats of the town and parish aforesaid for the time being, or the greater part of them, (of whom the aforesaid mayor for the time being we will to be one) every year, at convenient days and times to be appointed and named, shall, and every of them shall, be *the justices* of us, our heirs and successors, to keep the peace of us, our heirs and successors, within the town and parish aforesaid, the liberties and precincts of the same, and that the aforesaid mayor, steward, or recorder, and other the jurat or persons so as aforesaid to be appointed and nominated, *or any two of them*, (of whom the mayor of the town and parish aforesaid for the time being we will to be one,) may have and shall have full power and authority, within the town and parish aforesaid, to do and execute all and singular the things which to the office or offices of justice of the peace pertain, as well for the keeping of the peace of us, our heirs and successors, as for good rule there, from time to time to be done and executed, as fully, freely, and entirely, in and by all things, and in as ample manner and form, as either or any of the justices of us, our heirs or successors, in the county of Kent, as justices of the peace, may or ought to do and execute; so, nevertheless, that they in nowise proceed to the determination of any treason or felony, or of any other offence touching loss of life or member, without the special command of us, our heirs or successors, in that behalf. And further, of our more ample special grace, and of our certain knowledge and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, to the aforesaid mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, that they, and their successors hereafter for ever, may have and shall have,

within the town and parish aforesaid, or the liberties of the same, or either of them, *one prison or gaol*, for the keeping and custody and detaining in prison of all and singular persons attached and to be attached, or to the prison or gaol within the liberties of the town and parish aforesaid, in any manner howsoever to be adjudged, within the liberties of the town and parish aforesaid, or the precincts of the same, for any cause whatsoever which in the town and parish aforesaid, or either of them, might or ought to be inquired of, prosecuted, punished, or determined, until in lawful manner they shall be therefrom delivered. And that the *mayor* of the town and parish aforesaid for the time being be and shall be the *keeper* of the same prison or gaol for ever. And whereas also a certain church in the town of Maidstone aforesaid, called

Church. the *church of All Saints of Maidstone, was* formerly a *collegiate church*, and by many years now elapsed was used and applied to celebrate there divine service, and other things which to divine worship pertain, and the same church, with the cemetery of the same, was formerly parcel of the possessions of the late dissolved house or college of Maidstone aforesaid, as we are informed; we, moved by piety, and for the augmentation of divine worship, willing that hereafter for ever the same church, and the cemetery to the same pertaining, shall be, remain, and be applied to divine services, in the same church from time to time to be celebrated, and to the burying the dead in the same cemetery, will, and in right of our prerogative grant, that the same church, at all times hereafter for ever, be, shall be, and shall be called the parish church of Maidstone, in the county of Kent; and the same church, by the name of the parish church of Maidstone, in the county of Kent, for us, our heirs and successors, by these presents, will, at all future times hereafter for ever

to be named, known and called. And to the intent that the same church hereafter for ever may be and remain a parish church, for perpetually celebrating divine service, and other things to divine worship belonging, in the same church, and for administering the sacraments and sacramentals in the same, and to which church aforesaid the *mayor, jurats and commonalty* of the King's town and parish aforesaid, *and all other the inhabitants resident* within the same town and parish, from time to time may go, meet, and assemble, we do, of our special grace, and of our certain knowledge and mere motion, give, and by these presents grant and confirm, to the aforesaid the now *mayor, jurats and commonalty* of the King's town and parish of Maidstone, in the county of Kent aforesaid, and their successors, the same *church* of Maidstone aforesaid, and the cemetery of the same church, with the appurtenances, to have and to hold the aforesaid church and cemetery, with the appurtenances, to the aforesaid now mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors for ever, for the performing and celebrating there divine services, and other things which to divine worship pertain, as is now used, or heretofore was, or were, or are in use; to hold of us, our heirs and successors, *as of our manor of East Greenwich*, in the aforesaid county of Kent, by fealty only, in free and common socage, and not in chief, nor by knight's service. And further, of our more abundant special grace, and of our certain knowledge and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, to the aforesaid mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, free and special *licence*, and lawful power, faculty, and authority to have, *acquire*, receive, and pos-

Licence to hold in mortmain.

sess, to them and their successors for ever, messuages, lands, tenements, meadows, feedings, pastures, woods, underwoods, rectories, tithes, rents, reversions, and other hereditaments whatsoever, within our kingdom of England or elsewhere within our dominions, as well of us, our heirs and successors, as of any other person or persons which are not holden of us, our heirs or successors, immediately in chief or by knight's service; so only that the same messuages, lands, tenements, meadows, feedings, pastures, woods, underwoods, rectories, tithes, rents, reversions, services, and other hereditaments, in the whole do not exceed the clear yearly value of *twenty pounds* beyond all charges and reprises; *the statute* of not putting lands and tenements to mortmain, or any other statute, act, ordinance, or provision heretofore had, made, ordained, or provided, or any other thing, cause, or matter whatsoever to the contrary thereof in any wise notwithstanding. And also, we give and grant, for us, our heirs and successors, by these presents, to the subject and subjects whomsoever of us, our heirs and successors, free and special *licence*, lawful power, faculty and authority, that they, or any of them, may and shall be able to give, grant, sell, bequeath, or *alien* any messuages, lands, tenements, meadows, feedings, pastures, woods, underwoods, rectories, tithes, rents, reversions, services, and other hereditaments whatsoever, which are not held of us, our heirs and successors, in chief or by knight's service, to the aforesaid mayor, jurats and commonalty, and their successors, so that all the aforesaid messuages, lands, tenements, meadows, feedings, pastures, woods, underwoods, rectories, tithes, rents, reversions, services, and other hereditaments, so to the same mayor, jurats and commonalty, and their successors, by virtue of these presents, to be given, granted, bequeathed, or alienated, do not ex-

Licence to alienate.

ceed, in the whole, the clear yearly value of twenty pounds beyond all charges and reprises; the statute of not putting lands and tenements to mortmain, or any other thing, cause, or matter whatsoever heretofore had, made, passed, ordained, or provided to the contrary thereof in anywise notwithstanding. Moreover, know ye, that we, of our special grace, and of our certain knowledge and mere motion, have granted, and by these presents, for us, our heirs and successors, do grant, that the aforesaid the now mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, may and shall be able at all times hereafter to have, enjoy and *retain, to their own proper use,* all and singular the houses, messuages, chapels, lands, tenements, rents, and hereditaments, with their appurtenances, *which* by the letters patent of the Lord Edward the Sixth, late King of England, of the date of the fourth day of July, in the third year of his reign, *are mentioned to be given or granted to the then mayor,* jurats and commonalty of the town or parish aforesaid, by whatsoever name or names the same messuages, chapels, lands, tenements, rents, and hereditaments, are given or granted. And also, for the greater security and assurance of the now mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, in the same, we have, of our like special grace, and of our certain knowledge and mere motion, given and granted, and for us, our heirs and successors, do give, grant, and confirm, to the aforesaid the now mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent aforesaid, and their successors, the aforesaid houses, messuages, chapels, lands, tenements, rents, and hereditaments, with the appurtenances, in the aforesaid letters patent of the said Lord Edward the Sixth, late King of England, specified or

Corporation may hold the lands mentioned to be granted to them in the charter of Edw. VI.

granted, to have and to hold all and singular the houses, messuages, chapels, lands, tenements, rents, and hereditaments aforesaid, with the appurtenances, so as aforesaid in the aforesaid letters patent of the aforesaid Lord, King Edward the Sixth, specified to be granted, to the aforesaid now mayor, jurats and commonalty, and their successors, to their proper use, to hold of us, our heirs and successors, by such, the same, such sorts of, and the like rents and services, by which and as they were heretofore holden of us, or our progenitors or ancestors. And further, of our more ample special grace, and of our certain knowledge and mere motion, we do, for us, our heirs and successors, *grant and confirm* to the aforesaid *mayor, jurats and commonalty* of the King's town and parish of Maidstone aforesaid, and their successors, all and all manner *of lawful liberties, franchises, immunities,* exemptions, acquittances, jurisdictions and privileges: And also all and singular the same and such other messuages, lands, tenements, and hereditaments, customs, *views of frankpledge,* courts, fairs, feasts, markets, tolls, tributes, customs, fines, amerciaments, issues, rights, *liberty of electing burgesses to the Parliament* of us, our heirs and successors, waifs, and estrays, which the mayor, jurats and commonalty of the town and parish of Maidstone, OR THE INHABITANTS OF the same town and parish of Maidstone, or either or any of them, by whatsoever names, or by whatsoever name, or by whatsoever incorporation, or by *pretext of whatsoever incorporation,* they have heretofore had, held, used, or enjoyed, or ought to have had, held, used, or enjoyed, to them and their successors for ever, of an estate of inheritance, by reason or pretext of any charters or letters patent of any of our progenitors or ancestors, in anywise howsoever, heretofore mentioned to be made, confirmed, or

Confirms former grants.

granted, or by pretext of any prescription, use, or custom, or in any other lawful manner, right, or title, heretofore had, used, or accustomed, although the same, or either or any of them, have not heretofore been used, or have been abused, or misused, or discontinued, and although the same, or either or any of them, have been forfeited or lost, to have, hold, and enjoy, to the same mayor, jurats and commonalty, and their successors for ever; to hold of us, our heirs and successors, by such, the same, such sorts of and the like rents, services, sums of money, and demands, by which, and as the same have heretofore been held of us: Wherefore, we will, and firmly enjoining command by these presents, for us, our heirs and successors, that the aforesaid mayor, jurats and commonalty, and their successors, have, hold, use, and enjoy, and may and shall be able to have, hold, and enjoy for ever, all the liberties, authorities, jurisdictions, franchises, and acquittances aforesaid, according to the tenor and effect of these our letters patent, without the hindrance or impediment of us, our heirs or successors, the justices, sheriffs, or other the officers or ministers whomsoever of us, our heirs and successors: Willing not that the same mayor, jurats and commonalty, or their successors, or either or any of them, by reason of the premises, or either of them, by us, or by our heirs, justices, sheriffs, or other the officers or ministers of us, our heirs or successors whomsoever, be thereof hindered, molested, vexed, or in anywise aggrieved or disturbed: Willing, and by these presents firmly commanding and charging, as well the treasurer, chancellor, and barons of our exchequer at Westminster, and other the justices and officers of us, our heirs and successors, as our attorney and solicitor-general for the time being, and every of them, and all other our officers and ministers whomsoever,

that neither they, nor either or any of them, prosecute and continue, or make or cause to be prosecuted or continued, any writ or summons of *quo warranto*, or any other our writ, writs, or processes whatsoever, against the aforesaid mayor, jurats and commonalty, or either or any of them, for any causes, things, matters, offences, claim, or usurpation, or either of them, by them, or any of them, due, claimed, attempted, used, had, or *used* before the day of the making of these presents. And further, we will, and by these presents, for us, our heirs and successors, of our special grace, and of our certain knowledge and mere motion, grant to the aforesaid mayor, jurats and commonalty, and their successors, that these our letters patent, and all and singular the things in the same contained, shall be from time to time good, valid, sufficient, and effectual in the law, according to the true intent of the same; *notwithstanding* the not-finding an office or inquisition of the premises, or any part thereof, whereby our title ought to have been found before the making of these our letters patent; and, notwithstanding the *not naming* the premises, or any part thereof, in their proper nature, kind, sort, quantity, or quality. Also, we will, &c. without fine in the Hanaper, &c. Although express mention, &c. In testimony whereof, &c. witness the King, at Westminster, the thirty-first day of December.

By writ of privy seal, &c.

1605—4 James I.

In the corporation books of this year there is an entry, "That *freemen* must have *freeholds* in the *parish*."

This bye-law, or constitution, or whatever else it may be called, is conceived to be void in law: it is clearly not

authorized by either of the charters; and it appears to be contrary to the common law.

Persons free by birth or servitude would be entitled to be so treated, and be bound to take all the corresponding burdens on themselves, as well as those free by tenure; and if they were so, the corporation could not by a bye-law limit the freemen to the freeholders, any more than they could limit the right of voting for common councilmen to those freemen who had executed parochial offices, which was declared illegal by the Court of King's Bench, with respect to this same borough, in the case of the King against Spencer, 4 Bur. 1827; nor could they by any bye-law narrow the number of persons who were eligible as freemen.

This entry, therefore, whether it is a minute of a bye-law, or an extract from it, appears to be of no avail, and only a memorial of an attempt made by the corporation to confine the participation of their privileges to a more limited number than the charter authorized.

By an entry in the corporation books, the sons of freemen and apprentices are recognized, in distinction to those who purchase their freedom. The sons of freemen, and apprentices, are in most boroughs distinguished from those who are made free by purchase; and that properly and legally so. Those free by birth and servitude must be known to the mayor and jurats to be free, and are entitled to be enrolled as such: having, in the language of the modern law on this subject, inchoate titles to their freedom. But *strangers*, who were the persons purchasing their freedom, were not known to be free, and the town was not obliged to admit them as such, nor to receive them as inhabitants, unless they were willing so to do, under the law already quoted from Granville.

This gives a reasonable and consistent view of these rights, and is in conformity with law and history, affording a ready clue to unravel the intricacies of these sort of questions, and giving, as reason and common sense would dictate, a claim to the *known free inhabitants* of the place to be enrolled as such, but leaving the *strangers* to be adopted or rejected, as the community should think fit, or as they could agree with each other.

Bye-laws.

From the pleadings in Mussary's case, in the 10 Geo. II., and from the petition to the crown for a new charter in 1743, it appears that a bye-law was made on the 5th of August in this year (1605), providing that twenty-four or more, not exceeding forty, of the better sort of the commonalty, being freeholders and freemen of the said town and parish, to be named by the mayor, and six of the jurats, and six of the commonalty, named for that purpose, or the greatest number of them, should thenceforth be named and called the *common council*, to be assistant in council to the mayor and jurats when they should thereunto be called. The which mayor, jurats and common councilmen, and their successors thenceforth to be chosen, or most part of them assembled *at burghmote*, and none other, should have liberty to make ordinances and constitutions for the good government of the said town and parish, and none other to intermeddle, &c.; with power to supply vacancies by the most part then assembled in *burghmote;* and, on refusal to accept the office, to forfeit to the use of the corporation 20*s*. Which bye-law was accepted, &c.

Common council.

This bye-law does not appear in any respect to affect the constitution of the borough, nor the mode of making freemen; nor could it in any manner affect the parliamentary right of election. Sec. 4th, Instit. 48. Dover Case, Glanv. Reports, p. 64., and the Winchelsea Case in the same book.

At all events, however, it is very doubtful whether this bye-law was legal, as materially altering the power of making bye-laws given by the several successive charters, and constituting a new select body in the corporation; the election of which was, after they were once appointed, not to be in the body at large, but in the new select body themselves: and it will be seen hereafter, in the case of the King against Wildish, 13th Geo. II., that a bye-law, of this date, with respect to the election of jurats by this self-elected common council, was declared void.

1610—8 James I.

The next document worthy notice is the return of members to Parliament. The writ upon which it is made is properly directed, as before, to the mayor, jurats and *commonalty*. The return is made with the additional description (before explained) of "*burgesses;*" still exhibiting an exercise of the right by the same class of persons as elected at first, namely, the *free inhabitants*, householders duly enrolled and sworn, and described, according to the charters, by their corporate name of *commonalty*, and their common law appellation of burgesses; that is, the *liberi et legales homines*, the free and lawful men of the place.

1611—9 James I.

As in construing the charter of 2 James I., it has been assumed, that the freemen who are intended to vote for the several offices specified in it are the free inhabitants, and as hereafter it will be necessary to consider the rights of the non-resident freemen, it may be as well here to refer to a case which occurred at this time, and which explains, with reference to the city of London, and also perhaps as to other cities and boroughs, what the privileges of freemen were.

Walter v. Hanger.

In the case of Sir Thomas Walter against Hanger, which occurred this year, and is reported in Moor, p. 823, and which was a case as to the prisage of wine

in the city of London: one of the points resolved was, that he that would take advantage of the privilege "must be *free of the city*, and also an *inhabitant within the city*, and also *pater familias within the city*; for one may *be free of the city* and *no citizen*," (that is, in a borough,* no burgess,) "as if he remains and dwells elsewhere: he may he a citizen by habitation, and still not free, (that is, he may be a villein,) he may be a citizen, and free, and not a householder; and in all these cases he shall not have the privilege."

It will be readily seen how this case confirms the view which has been already taken of this subject, and how it will explain the documents which will hereafter be observed upon.

In the case of the King against Wildish, (13th Geo. II. 1739,) mentioned hereafter, it is stated, that a bye-law was made in this reign, by the whole of the corporation, and before the granting of the charter of James I., that the election of the jurats should be made by the mayor, jurats and a select party of the commonalty, called the common council; and which bye-law was declared by the court in that case to be illegal.

In the petition to the crown for a new charter in 1743, this bye-law is stated to have been made by the mayor, jurats, and common council, by virtue of the authority given to them by the charter of the 2d James I.; but that must be a mistake, as the common council is not mentioned in that charter, but is spoken of in a bye-law of that year, as a body not then existing, and was in fact created by the bye-law of the 5th James I. The date also of this bye-law is stated in the petition as the 10th of

* See before, the case cited of the warden and commonalty of the Sadlers' Company, 30 Eliz. 4 Co. 54. See also in Stanton's case. Moor, 135. T. 25 Eliz.

August, which is subsequent to the date of the charter of the same year; but in Wildish's case, this bye-law, as stated above, is described as being made before that charter.

The petition describes the persons eligible for jurats under this bye-law merely as *inhabitants*.

The next material document immediately relating to this borough, is the charter of James I. in the 17th year of his reign. 1619—17 James I.

Of this charter there is no enrolment to be found, the original, however, under the great seal, is supposed to be in the possession of the corporation.

It purports to continue the same privileges, and recognizes the incorporation of the mayor, jurats and *commonalty*, as incorporated by Queen Elizabeth, and also by the charter of 2d James I. and confirms the markets and fairs granted by these charters.

It then purports to recite the power of electing jurats, as given by the charters of Elizabeth and James, and states that the mayor, jurats and *commonalty*, had power to elect; whereas, both those charters give this power to the mayor and jurats alone, to the exclusion of the body at large.

In this respect, therefore, the charter is inaccurate, unless it must be read as describing the *grant*, which certainly was to the mayor, jurats and commonalty, although the power was to be exercised by the mayor and jurats alone; but it seems that, in fact, this misrecital arose from the bye-law, which had been made by the corporation, altering the right of election of jurats, as seen in the case of the King *v.* Wildish.

The qualification for the *eligible*, of being free and possessing freeholds, is also recited; and, for the purpose of putting an end to all doubts and questions on the subject,

it grants that the mayor, jurats and *commonalty* may elect any *person* OR *inhabitant*, a jurat, although not a freeman, nor having a freehold. The extension of eligibility to persons not being free, if taken in its full latitude, seems certainly a singular provision.

Treating the freeman as either a common law, or a corporate character, this provision is, in both views, extraordinary: for, be it either the one or the other, it seems strange that a person not free, (or in other words, a villein,) or not free of a body corporate, should be permitted to hold so important an office in the corporation as that of jurat.

But the next clause provides only, that if any freeman elected to the office of jurat, shall refuse the office, he may be fined; which seems to import that the person elected must be an inhabitant, or else he would not be within reach of the corporation: and it would seem that he must be a member of the corporation, or he would not be within their jurisdiction: and it must be observed, that the power of fining for refusal to take the office, can, by this latter clause, be only enforced against freemen.

It is conceived therefore, in order to reconcile these two clauses, and make the whole intelligible, the first clause must be construed to mean that they might elect any person inhabitant, to be a jurat, although he was not a freeman *at the time of the election:* but by the second clause, it appears clearly to be intended that he should be enrolled and sworn as free, before he was compelled to take the office, or to be fined for refusing it: and the whole seems to import, that any inhabitant could be compelled to take upon himself the offices of the corporation, when called upon to do so; and that the inhabitants, and not the freemen, as far as they are here distinguished from each other, were the corporators.

After giving the mayor and jurats power to appoint a recorder, this charter proceeds to give the mayor, jurats and *commonalty* power to nominate, elect and admit any person or persons, being an *inhabitant, or not an inhabitant,* to be a *freeman* of the town and parish for life. Recorder. Freeman.

It must be observed that this clause is introduced into this charter for the first time.

Although persons had been for a long time before admitted as freemen, no power to that effect had been given by any charter; consequently it must be assumed, that those admissions had been made under the general law, to which reference has already been made in Glanville.

This clause, therefore, can only be treated as declaratory of the general law. For the King could not by his prerogative alter the law, or affect either the rights of the public or individuals: consequently the King could not enable the corporation to make free of their body, so as to enjoy all the privileges of it, any person, inhabitant or non-inhabitant; for such a power, taken according to the generality of the terms, would enable them to make all the subjects of the realm free, which is absurd; it would have had the effect of having enabled them to enfranchise all the villeins, which would clearly have been unreasonable; and would have been an interference by the crown with the rights of the lord, which, even in the most arbitrary times, would not have been tolerated. It would have enabled them to give a general exemption from juries, and to have absorbed every jurisdiction in their own, in which alone the members of the corporation were to plead and be impleaded. Bro. Abr. tit. Patents, 100.

The clause, therefore, must require, in its construction, some limitation; probably the one most reasonable, and most consistent with the common law, would be, that it

means to give to the corporation the power of receiving, enrolling, and swearing, as free, any persons coming to reside within their town, whether they had inhabited there before or not. Or, it may mean merely an admission, in conformity with the statutes alluded to before, as to the guilds and fraternities for the purposes of trade; and the subject seems to be so treated in the case of the mayor and commonalty of Colchester against Godwin, Carter, 114.

At all events, with whatever limitation the words are to be taken, it seems clear from the words themselves, (particularly as such a construction is confirmed by the authority of Sir Thomas Walter against Hanger,) that the freemen, merely as such, were not members of the corporation: for that body, *by all the former charters, and by this, is to consist of inhabitants alone,* and of course could not extend to those who were not inhabitants, who, nevertheless, are by this clause made eligible as *freemen.*

This construction is strengthened by the circumstance, that in the same charter, an inhabitant is made eligible to the office of jurat, (which is a corporate office,) although he is not a freeman; upon which circumstance observations have already been made.

It should also be observed that the recorder, whom the corporation have the power of electing, is also not made one of the corporate body by the words of the charter; and if so, he will be taken to be a stranger to the corporation. See Rex *v.* Birch, 13 East. 367.

Court,—limits of borough.

The extent of the jurisdiction of the fortnight court is then defined, and the limits of the borough set out with much particularity.

Juries.

After which, the clause in the charter of Elizabeth, excepting the mayor, jurats and commonalty, and the inhabitants, from all juries but in the town, is recited; and

for the more perfect explanation of it, the grant is repeated as made to the mayor, jurats and *commonalty*, and *every inhabitant*, from time to time; meaning, it is conceived, every person who shall, from time to time, come to inhabit in the town. The same observations apply to this clause as have been made before in the corresponding clause in the charter of Elizabeth: and it should be added, that this exemption being granted to the commonalty, and the inhabitants being expressly named, seems strongly to show, that the freemen mentioned in the former clause would not be included in this, unless they were also inhabitants.

Justices. For the better preservation of the *inhabitants*, the mayor, recorder, and two of the more ancient in degree and order of the jurats, are made justices of the peace.

Coroner. The mayor is appointed coroner. Waifs, estrays, goods of felons, &c. are granted to the corporation; and the return of writs, with a non-intromittant clause, as to the king's sheriff, coroner, or escheator.

Bridges. A clause relating to the bridges recites that the mayor, jurats and commonalty, *inhabitants* of the town, had enjoyed certain profits *for the use of the inhabitants:* a passage again expressly describing the commonalty as inhabitants of the town; and raising a strong inference that this term included all the inhabitants.

Tolls. The customs to be paid are then enumerated; after which, a power is given to the mayor, jurats and commonalty to assess upon themselves, and every *inhabitant*, reasonable taxes and assessments *for the support of the town*, to be levied by distress: a power, the legality of which, when given only by the charter of the crown, might be much questioned under any circumstances; and which clearly could not be legal, unless *all the inhabitants* were members of the corporation; for in that case, it would be

Assessments.

giving to the corporation the power of taxing others than their body; which the King certainly could not give.

It seems, therefore, that this clause also goes a great way to confirm the construction before stated of the corporation, including all the inhabitants.

Co. Litt. 122. *b.* Fitz. N. B. 161. *a.*

It is true, that the frame of the sentence, adding, after the words mayor, jurats and commonalty, "*and every inhabitant,*" may at first sight be thought to import that some of the inhabitants, at least, were not of the commonalty; and which in strictness was the fact, for women, aliens and minors could not be enrolled or sworn as free; but still they would be subject to the necessary taxes of the town, as inhabitants; because their cases are excepted by the law; they are exempt and excluded from some burdens and privileges; but they can enjoy others: the females share the protection of the town, and the minors will, when of age, share in the corporate franchises: so that when it is said, "*all the inhabitants*" are included in the term commonalty, women and minors, and also lunatics, are excepted by implication of law; though, as inhabitants, they share some of the privileges.

Confirmation.

The general confirmation of former privileges with which this charter closes, is also to the mayor, jurats and *commonalty;* and there seems no reason for doubting that this charter, like all the former, was a grant to the *inhabitants* of the town, by the corporate name of mayor, jurats and *commonalty*. It does not mention the election of members of Parliament.

For the further information of the reader, we have thought it right to give a copy of the charter of 17th James I. It is as follows:

Amongst the Records kept in the Treasury of the Court of the Receipt of the Exchequer, viz. in the Bundle of Privy Seals indorsed "Seventeenth James I." is contained as follows.

To our well beloved and very faithful cousin and counsellor, greeting, we command you, that you cause to be made, under our privy seal, our letters to be directed to our chancellor of England, commanding him that he cause to be made our letters patent, under our great seal of England, in form following:—The King, to all to whom, &c. greeting, whereas our most dear *sister Elizabeth*, late Queen of England, by her letters patent, under her great seal of England made, bearing date at Westminster the fourth day of December, in the second year of her reign, with the advice of her then very dear counsellors, for herself, her heirs and successors, of her special grace, certain knowledge and mere motion, (amongst other things,) did *grant to the mayor, jurats and commonalty* of the town and parish of Maidstone, by the name of the *mayor, jurats* and *commonalty* of the town and parish of Maidstone, in the county of Kent, and their successors, one *market*, within the aforesaid town of Maidstone, in a certain place there, commonly called the Market-place, every week, on Thursday, thereafter for ever, to be held and kept, with all tallages, customs, and other profits to market belonging; and also *four fairs*, or feasts, to be held and kept in the aforesaid town of Maidstone, in such place where the mayor of the same town and parish for the time being, by proclamation for the same made, should assign the same to be held within the same town and parish; that is to say, one thereof to begin every year thereafter at noon of the last day of April, and to continue until noon of the second day of the month of May then

Recital of charter of 2 Elizabeth.

As to grant of market and fairs.

next following; one other thereof to begin every year thereafter at noon of the day of the vigil of the feast of Saint Edmund, the king and martyr, and to continue until noon of the morrow of the day of the same feast then next following, and one other thereof to begin every year thereafter, for ever, at noon of the day of the vigil of the feast of Saint Faith the Virgin, and to continue until noon of the morrow of the day of the same feast then next following; and the other thereof to begin every year thereafter at noon of the day of the vigil of the feast of the Purification of the blessed Virgin Mary, and to continue until noon of the morrow of the day of the same feast next following; and all and singular tolls, stallage and other things whatsoever, coming or growing from the said fairs or feasts, and every of them, or by reason of the said fairs or feasts, or either of them; and courts of *Pie Powder* to be held in the fairs and markets aforesaid, and every of them; and *all fines*, amerciaments, forfeitures, profits and emoluments, as well within the aforesaid courts of Pie Powder as by reason and occasion of the same coming, growing, and arising, as by the letters patent aforesaid is more fully manifest and appears: And whereas also, we afterwards, by *our letters patent*, under our great seal of England sealed, bearing date at Westminster the thirty-first day of December, *in the second year of our reign* of England, &c. did newly *make*, incorporate, and name *the same* then mayor, jurats and *commonalty* of the town and parish aforesaid, by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent; and the aforesaid markets, fairs and feasts, and other the liberties and privileges by the said letters patent of our said sister Elizabeth, late Queen of England, to the same mayor, jurats and commonalty of the town and parish aforesaid

2 James I.

before granted, we, by our said letters patent to the then mayor, jurats and commonalty of the town and parish of Maidstone aforesaid, and their successors, by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in our county of Kent, for their greater security, did grant and confirm, as also by our same letters patent is more fully manifest and appears; know ye, that we, willing to show and do to the same the now mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, further grace and favour, and also at the humble petition of the aforesaid mayor, jurats and commonalty of the same town and parish, of our special grace, and of our certain knowledge and mere motion, *have ratified*, approved, and confirmed, and by these presents, for us, our heirs and successors, do ratify, approve, and confirm, to the same mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, and their successors, the aforesaid *markets, feasts,* courts of Pie Powder, tallages, customs, tolls, stallage and profits in the markets, fairs or feasts, and courts aforesaid, coming, growing, arising, or to the same in anywise howsoever belonging or appertaining; and further, for the better security of the same, the now mayor, jurats and commonalty, and their successors of and in the aforesaid premises, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, to the aforesaid mayor, jurats and commonalty, and their successors, the aforesaid markets, fairs or feasts, courts of Pie Powder, piccages, tallages, customs, tributes, tolls, stallage, and all and singular other profits whatsoever to the aforesaid market, fairs or feasts, and courts of Pie Powder, in anywise howsoever belonging, appertaining, arising, renewing, or happening; and that it may and

Confirms markets.

L. of C.

shall be lawful to the aforesaid mayor, jurats and commonalty, and their successors, if it shall so seem expedient to them, at their pleasure from time to time, to extend the market aforesaid beyond the aforesaid place, called the Market-place, or to hold and keep the same market in some other convenient place within the town aforesaid. Willing also, and by these presents, for us, our heirs and successors, granting to the aforesaid mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, that they, and their successors hereafter for ever, may have, receive, hold and enjoy, and may and shall be able to have, hold, receive and enjoy, to their proper use and behoof, in and from the aforesaid markets and fairs or feasts, reasonable PICCAGE, sums of money for the showing of goods and merchandize there to be sold or exposed to sale, (called *show-money,*) *stallage, tallage, tolls, tributes, customs, commodities, profits, rights* and jurisdictions, of what nature, kind, or sort soever, to any markets, fairs or feasts, in anywise howsoever belonging or appertaining, and in as ample manner and form as in the same or any other markets, fairs or feasts, within any *city, borough* or *town* in our county of Kent, in any manner are or have been lawfully received, had, or taken, although the same profits are not particularly, or by express names, named or declared in these presents, or in the said letters patent of our aforesaid sister Elizabeth, late Queen of England: *and whereas,* also, the *aforesaid mayor, jurats and commonalty,* and their predecessors, *by virtue of the* said letters patent of our said late sister, *may elect, as jurats* of the same town and parish, either or *any of the inhabitants* of the same town and parish, *and afterwards, in our aforesaid letters patent* it is men

Recites that by charter of Elizabeth, the mayor, jurats and commonalty may elect, as jurat, any inhabitant,

tioned that the aforesaid mayor, jurats and COMMONALTY,* and their successors, may be able *to elect, as jurat there,* any inhabitant of the same town and parish aforesaid, *being a freeman of the same town and parish, and there having a freehold in his* own proper right. We, therefore, willing that all and singular questions, *doubts* and controversies of, for and *concerning the election of jurats* there to be made hereafter, be henceforth taken away and appeased, for us, our heirs and successors, by these presents, *do give, grant,* constitute and ordain, that it may and shall be lawful to the aforesaid mayor, jurats and COMMONALTY of the King's town and parish of Maidstone aforesaid, and their successors, from time to time hereafter, to name and elect any person *or persons inhabitant or inhabitants within the town* and parish aforesaid, as jurat or jurats of the same town and parish, and that such person or persons so named and elected, or hereafter to be named and elected, *shall be a jurat* and jurats of the same town and parish, as either or any of the jurats of the same town and parish now is or are, *although such person* or persons so to be named or elected as a jurat or jurats as aforesaid *be not a freeman or freemen of the same town* and parish, and although *such person or persons hath or have not a freehold in their proper right within* the town and parish aforesaid, any thing in the said letters patent before recited to the contrary thereof notwithstanding; *and if any freeman* or freemen of the same town, so as aforesaid named or elected to be named or elected to the office and place of a jurat or jurats, *shall refuse* to take upon himself and execute the same place and office, then we will, and for us, our heirs and successors, grant to the aforesaid mayor, jurats and *commonalty* of the King's town and parish aforesaid, and their successors, that it

and that by charter of 2 James, the mayor, jurat and commonalty may elect, as jurat, any inhabitant, being a freeman, and having freehold.

To put an end to doubt,

the King grants that mayor, jurats and commonalty may elect, as jurats, any person inhabitant within town;

and such person, so elected, shall be a jurat, although not a freeman, nor have a freehold.

If any *freeman elected* shall refuse,

* This charter was inaccurate in this recital.

may and shall be lawful to the aforesaid mayor, jurats and commonalty, and their successors, or the greater part of them for the time being, upon such person and persons so refusing the office or place of jurat aforesaid, *to impose and assess* a reasonable fine or sum of money, and the same fine and sum of money so assessed and imposed, by distress of the goods and chattels of the same person or persons so refusing, according to the laws and statutes of this our kingdom of England, to levy [and the same mayor, jurats and commonalty, and their successors] may and shall be able, from time to time, to take, receive, and retain the same, to the proper use and behoof of the aforesaid mayor, jurats and commonalty and their successors. Also, we will, and by these presents, for us, our heirs and successors, grant and ordain, that the aforesaid *mayor and jurats* of the same town and parish for the time being, and their successors, or the greater part of them, from time to time hereafter, may and shall be able to nominate and elect one man, learned in the laws of England, as recorder of the King's town and parish aforesaid and that he so elected or to be elected, be, shall be, and shall be called recorder of the said town and parish, and may have and hold the same office or place of recorder during the pleasure of the aforesaid *mayor and jurats* for the time being, or the greater part of the same: *And that the aforesaid mayor, jurats and commonalty* of the King's town and parish aforesaid, and their successors, or the greater part of them, *may and shall be able* to nominate, elect and admit *any person or persons, being an inhabitant or not an inhabitant of* the same King's town and parish of Maidstone aforesaid, *a freeman* or freemen of the same town and parish aforesaid: And that he or they *so as aforesaid, and as heretofore in* the town aforesaid hath been accustomed, *or*

mayor, &c. may impose fine.

Recorder.

Mayor, jurats and commonalty *may* elect any person a freeman, inhabitant or not,

in any other manner, named, *elected* or admitted, or to be named, elected or admitted, be a freeman and freemen of the town and parish aforesaid, and be so called and accounted during their natural lives, if for any reasonable cause he or they be not amoved by the aforesaid mayor, jurats and commonalty, or the greater part of the same for the time being: And which recorder, jurats and freemen, so as aforesaid, from time to time to be named, elected or admitted, and every of them respectively shall take and make their several *oaths* upon the holy evangelists before the mayor and jurats for the time being, or the greater part of the same, (of whom the mayor for the time being we will to be one,) well and faithfully to do and execute their several offices or places respectively, as *the steward or recorder, jurats and freemen of the town* and parish aforesaid *have been heretofore used or accustomed*: And whereas also, our same most dear sister, Elizabeth, late Queen of England, by her said letters patent, did grant to the aforesaid mayor, jurats and commonalty, and their successors, full power and authority to hold before the aforesaid mayor of the town and parish aforesaid for the time being, in a convenient place within the town aforesaid, by the mayor of the town and parish aforesaid for the time being to be appointed, *a court*, from fourteen days to fourteen days, on Tuesday, and in the same court [to hear, try and determine] pleas as well of assize of novel disseisin, and other pleas, actions, plaints and suits whatsoever, in anywise howsoever concerning messuages, lands and tenements, being within the town or parish of Maidstone aforesaid, as actions, suits, plaints and demands whatsoever, as well real and personal as mixt, happening, arising, or growing within the town and parish aforesaid, or either of them, whether they exceed the sum of forty shillings or not: And the same late Queen, by her

and he and they *so elected*, and as heretofore, or in any other manner *elected*.

To take oaths.

Law court.

same letters patent, did will, that the town and parish of Maidstone, aforesaid, and the liberties of the same, should extend by the water of Medway, from a certain bridge called Eastfarleigh Bridge, unto a certain place called Hawkewood, as in the same letters patent more fully appears: And whereas the aforesaid water of Medway, between the aforesaid bridge called Eastfarleigh Bridge, and the place aforesaid called Hawkewood, runs by and through the town and parish of Maidstone aforesaid, and by and through the several towns of Eastfarleigh, Barming, Loose, Boxley, Allington, and by certain streets called Millhale and Newhithe, in the parish of East Malling, in our county of Kent aforesaid; and the same town and parish of Maidstone aforesaid extends promiscuously in, by and through the town of Loose aforesaid, and Linton, in the county aforesaid, and beyond, and also by the towns of Eastfarleigh, Barming and Boxley, and by the town of Otham, in our county of Kent aforesaid, as we have certain knowledge thereof: Now we, intending to put into certainty and limit into what parishes, towns, hamlets and streets, and how and whereunto the liberties and jurisdiction of the *mayor, jurats and commonalty* of the King's town and parish of Maidstone aforesaid (*as to the hearing and determining of pleas in their court aforesaid*) extend and reach, will, and by these presents, for us, our heirs and successors, of our like special grace, and of our certain knowledge and mere motion, grant, ordain and declare, that the liberties of the King's town and parish of Maidstone aforesaid, and also the jurisdiction of the mayor, jurats and commonalty of the same town and parish, and their successors, *only as to the cognizance and determination* before the aforesaid mayor for the time being, and his successors, of all and all manner *of actions*, personal and mixt, and of replevies made, and to no

Extent of borough as to jurisdiction of court, &c.

other intents, constructions and purposes, hereafter extend and reach, in, by and through the aforesaid towns and parishes of Eastfarleigh, Barming, Loose, Boxley, Allington, Millhale, Newhithe, Linton, and Otham; and henceforth be had, reputed and adjudged, so to extend and reach, whether the actions aforesaid, or either of them, exceed the sum of forty shillings or not; so, nevertheless, that such cognizance and determination of actions personal, mixt, and of replevies aforesaid, within the town and place aforesaid arising, by these presents granted and confirmed to the same mayor, jurats and commonalty, be not to the damage or prejudice of the jurisdictions, customs, liberties, or privileges of any other of our subjects, there having or lawfully claiming any thing in that behalf. And that, for the better execution of the same actions personal, mixt, and of replevies, it may and shall be lawful to the aforesaid mayor for the time being, in and by the aforesaid parishes, towns, streets and hamlets of Eastfarleigh, Barming, Loose, Boxley, Allington, Millhale, Newhithe, Linton and Otham, to make and execute attachments, and all other legal processes and executions, by their sergeant or sergeants at mace, or by any other person or persons by the same *mayor* for the time being to be named or appointed, as the law in that behalf demands. And whereas the aforesaid late lady, Queen Elizabeth, by her aforesaid letters patent, did grant to the same mayor, jurats and *commonalty*, and their successors, that *they*, and *every of the inhabitants* of the same town and parish, then thenceforth for ever, should be exempt and discharged from all and all manner juries and inquisitions to be returned, had, or taken before any justices whomsoever of the same late said lady, the Queen, her heirs or successors, except in the said town of Maidstone, although the same Queen, her heirs or successors, be parties in the same juries or

Exemption from juries.

inquisitions. Also, we, for the better certainty of the exemption of the *inhabitants* of the town and parish aforesaid from the juries and inquisitions aforesaid, of our like special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, by these presents, will, grant and declare, that the aforesaid mayor, jurats and *commonalty* of the King's town and parish aforesaid, and their successors, *and every inhabitant from time to time* of the same King's town and parish, or either of them, be not put or impannelled in any juries and inquisitions to be taken before the justices of us, our heirs or successors, to hear and determine felonies, trespasses, and other misdeeds in the county aforesaid, or before the justices of us, our heirs or successors, of *Nisi Prius*, or of the gaol delivery, in the county of Kent aforesaid, or before the escheator and other commissioners, or ministers of us, our heirs or successors, without the town and parish of Maidstone aforesaid. And that the sheriff of our county of Kent aforesaid for the time being, shall not put or impannel, or cause to be put or impannelled, the aforesaid mayor, jurats and commonalty, and their successors, or any inhabitant of the same town of Maidstone, in such juries and inquisitions to be taken *without the town* and parish aforesaid, as aforesaid. And moreover, we, for the better preservation and conservation of the aforesaid town and parish of Maidstone, and the *inhabitants* of the same in peace and good rule, of our special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, have willed, granted and ordained, and by these presents do will,

Justices of the peace.

grant and ordain, that the *mayor* and *recorder* of the town and parish of Maidstone aforesaid for the time being, and *two* of the more ancient (in degree and order) *of the jurats* of the same town and parish for the time being, and every of them and their successors, as long as they

shall have and hold their offices or places respectively, they, and every of them, be and shall be our justices, and the justices of our heirs and successors, to keep the peace of us, our heirs and successors, within the town and parish aforesaid, and to do, perform and execute all and singular the things which to the office of justice of the peace of us, our heirs or successors, pertain, as other justices of the peace of our county of Kent have been accustomed to do and execute. And that *no justice* of the peace of our county of Kent aforesaid, in anywise intromit himself within the said town and parish of Maidstone, to do any thing which to the office of justice of the peace there belongs or pertains; and which mayor and two of the more ancient jurats of the town and parish aforesaid for the time being, so named as aforesaid as justices of the peace, shall make and take, and every of them shall make and take, their corporal *oath* upon the holy evangelists, before the rest of the jurats then for the time being, faithfully to perform and execute the office and place of a justice of the peace there. And that the aforesaid mayor, recorder, and two of the more ancient jurats of the town and parish aforesaid, as aforesaid, for the time being, and their successors, or any three of them, (of whom the mayor and recorder of the town and parish aforesaid for the time being we will to be two,) may have and shall have, thenceforth for ever, full power and authority to inquire, hear, and determine all and singular *trespasses and misdeeds*, of whatsoever kind, nature, or sort, within the town and parish aforesaid arising, as justices of peace in the county of Kent, two or more of them, as well in their sessions as without, by virtue of our commission or grant to them thereof made, may, or shall be able to do, act, or perform: *so, nevertheless*, that to the determination of any treason or felony, or of any other

offence touching the loss of life, or member, without the special mandate of us, our heirs or successors, they in no-wise in that behalf proceed. And that the aforesaid mayor, jurats and commonalty of the town and parish aforesaid, and their successors, may have, take and receive, to their own proper uses, all and singular *fines*, forfeitures and issues of jurors for their not appearing, and also fines and forfeitures for trespasses and other misdeeds and contempts before the same mayor, recorder, and two jurats, justices of the peace, or three of them, as aforesaid, within the town and parish aforesaid, from time to time happening, renewing, or arising. And moreover, we, of our like special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, have willed, given and granted, and by these presents, do will, give and grant, to the aforesaid mayor, jurats and *commonalty* of the town and parish aforesaid, and their successors, that the now mayor, and every *mayor* of the town and parish aforesaid henceforth happening, during the time of his mayoralty, be and shall be the *coroner* of us, our heirs and successors, in and through the town and parish of Maidstone aforesaid. And that he, by himself, or by his sufficient deputy under the seal of the said mayor in that behalf to be named or deputed, shall do and perform, and may and shall be able to do and perform, all and singular the things which to the office of coroner belongs or appertains within the town and parish aforesaid, in as ample manner and form as any coroner of any county of our kingdom of England, or of any liberty within the same liberties, can, ought, or may be able lawfully to inquire, act, do, execute, or perform: the aforesaid now mayor his corporal *oath*, well and faithfully to execute the same office, before the last mayor, his predecessor in that behalf, having first taken;

Coroner.

and to whom, now being the last mayor, and his successors, we give and grant, by these presents, for us, our heirs and successors, full power and authority, from time to time, to take and administer such oath; *and that no other* coroner of our county of Kent aforesaid, within the town and parish of Maidstone aforesaid, hereafter *intromit* himself to do any thing which to the office of coroner belongs or appertains. And further, we, of our special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, have given, granted and confirmed, and by these presents do give, grant and confirm, to the aforesaid mayor, jurats and *commonalty* of the town and parish of Maidstone aforesaid, and their successors, to their proper use and benefit, all and singular *the goods and chattels* waived, estrays, fines, forfeitures, and other profits and emoluments, by the said letters patent of our said late sister to the aforesaid mayor, jurats and commonalty, and their successors heretofore given and granted; and also, the goods and chattels of felons and fugitives, persons outlawed, or put in exigent, within the town and parish aforesaid, by land or by water, hereafter falling, happening, renewing or arising. And that the MAYOR of the town and parish aforesaid for the time being, and his successors, may have and shall have, from time to time, *return of all and singular* the writs, mandates, and precepts of us, our heirs and successors, within the town and parish aforesaid, hereafter to be made and executed; so that our *sheriff*, *coroner*, or *escheator*, in the county of Kent, or other the ministers of us, our heirs or successors, nor either of them respectively, to do or perform any thing in the same town and parish, in *nowise* intromit himself or themselves in the premises. Also, we will, and by these presents, of our special grace, and of our certain knowledge and mere motion, grant to the aforesaid mayor, jurats and *commonalty*, and their successors,

Grant of waifs, estrays.

Return of writs.

Wharfage.

that they and their successors may have, receive and enjoy, and may and shall be able to have, receive and enjoy, for their own proper use and behoof, *wharfage, anchorage* and *groundage* of all and singular ships and other vessels, of whatsoever kind or burthen, coming to the same town and parish of Maidstone, and reasonable wages and fees for the lading and unlading of merchandizes, goods and chattels in the same ships or vessels, in or out of the same ships or vessels there to be laden or unladen: And that also the aforesaid mayor, jurats and commonalty, and their successors, may likewise have, by the water aforesaid, from the aforesaid bridge called Eastfarleigh Bridge unto Hawkewood, the liberty and privilege of *keeping and preserving swans, cygnets,* and a swan-mark for the same, and to change and alter the same swan-mark at their pleasure: And also to sign and mark all and singular the swans and cygnets by the water aforesaid, or within the metes and limits aforesaid, and the banks and soil of the same, building, breeding or resorting, and not lawfully signed or marked with the swan-mark aforesaid, and full power and authority, the swans and cygnets aforesaid swimming or straying out of the limits and metes aforesaid, by water and land, to pursue, retake, bring back, and have again, without the impediment of us, our heirs or successors, or of any other our officers or ministers, or others whomsoever: And whereas also the mayor, jurats and *commonalty* of the town and parish aforesaid, and their predecessors, *inhabitants* of the same, in times past have been used to receive and have, and have had and received, or at least have pretended and claimed to receive and have, for the maintenance of the state of the same town, and of the public and common structures and edifices there, as *well for the habitation and maintenance of the poor* there, the water course to the town of Maidstone aforesaid, for the necessary *use of the inha-*

Liberty of keeping swans.

bitants there, and for the support of the yearly charge of the same; and also for the maintenance and support of divers stone bridges, one whereof is of great extent, upon the water of Medway aforesaid, consisting of divers stone arches, and one other of the same, also with like arches, upon another river in the parish of Maidstone aforesaid: And for the better maintenance of the ways and causeways in and about the town of Maidstone aforesaid, for passing with carriages in and from the town aforesaid, which have been greatly injured by carts and waggons, divers sums of money, *and customs of and for merchandize and other things to the town of Maidstone aforesaid, there brought to be sold or carried by water* from the town aforesaid to the city of London, and other places to be transferred or carried [have been taken and had]: We also, intending the continuation of the good estate of the town and parish aforesaid, and of *the inhabitants* there in the premises, and to put in certainty and declare the same sums of money so taken and had, of our special grace, certain knowledge and mere motion, for us, our heirs and successors, by these presents, grant to the aforesaid *mayor, jurats and commonalty*, and their successors, in aid of the reparation and amendment of the bridges, ways and causeways, and common edifices aforesaid, the water course of Medway, and the soil and banks of the same, *that they by* themselves, their ministers or servants, *may* hereafter *for ever, from* time to time, *have and receive,* for the merchandize and things to the town of Maidstone aforesaid brought or to be brought, and in the markets, fairs or feasts, or otherwise, there to be sold, or from the town aforesaid to the city of London, or to any other places by land or water aforesaid conveyed, brought, carried or taken away to be conveyed, brought, carried or taken away, these several sums of money and customs underwritten; that is to say, for every ton of wine, oil or vinegar, one

penny; for every cart laden with corn or grain, of what kind soever, timber, fire-wood, iron, coals of every kind, wrought stones or other the like saleable things or goods, one penny: And for every greater or less quantity according to that rate, and also for every poyse or weight of cheese, butter, salt and other merchandize, one penny; and according to that rate for every greater or less weight: And for every broad cloth, one penny; for every smaller cloth, called a kersey, one half-penny; and so, according to that rate, for every greater or less quantity of the aforesaid cloths: And for every quarter of corn or grain, of what kind soever, one penny; and so according to that rate for every greater or less quantity of the same: And for every one hundred sea fish brought or carried to the town of Maidstone aforesaid to be sold, one penny; and so, according to that rate, for every greater or less quantity: For every ox, steer, cow, horse, mare, foal and heifer saleable, one penny: For six sheep, for sale, one penny; and so according to that rate for any greater or less number: For every calf or pig, for sale, one half-penny: For every truss of goods, of the value of twenty shillings or upwards, one penny; and for every merchandize and saleable thing, above not expressed or specified, exceeding the value of five shillings, one halfpenny: Also, we grant, for us, our heirs and successors, to the aforesaid *mayor, jurats* and *commonalty* of the town and parish of Maidstone aforesaid, and their successors, that they, or the greater part of them, for the better support of the charges of the town and parish aforesaid, or other reasonable cause or respect, or for the public good and convenience of the same town and parish, and the *inhabitants* there, may and shall be able from time to time to make, impose and ASSESS, upon *themselves* and *every inhabitant* there, reasonable taxes and assessments, in reasonable sums of

Assessments.

money, and the same by *distresses*, or other legal manner, to have, receive and levy, as heretofore they have been used or accustomed. And moreover, we will, and by these presents, for us, our heirs and successors, *grant and confirm* to the aforesaid mayor, jurats and *commonalty of* the King's town and parish aforesaid, and their successors, that they and their successors have, hold, enjoy, and use, and may and shall be able, henceforth for ever, to have, hold, enjoy, and use, *all and singular such liberties, powers*, authorities, *franchises*, immunities, acquittances and *free customs*, as and which they, or their predecessors, *by virtue* of any charters or letters patent, by us or either of our progenitors, late Kings or Queens of England, *or otherwise* in any lawful manner, right or title howsoever, *have had, held, or enjoyed, although the same* franchises, liberties, immunities, and free customs, by them or their predecessors *hitherto have not been used, or might have been abused; willing* also, and by these presents, for us, our heirs and successors, *commanding and enjoining, that* the aforesaid mayor, jurats and commonalty of the town aforesaid, and their successors, or either of them, *for any causes, things, claims or usurpations by* them, or either of them, claimed, attempted, used, or *had before the making of these presents*, by *any writ of quo warranto*, or other writs or processes by us, or any of the officers or ministers of us, our heirs or successors, *be not prosecuted*, hindered, molested, nor in anywise disturbed or aggrieved, *any information* or suit in our name against the aforesaid mayor, jurats and *commonalty*, in any our courts of record of, for, or concerning the premises, or either of them, now exhibited or depending, *notwithstanding:* And further, we will, and by these presents, for us, our heirs and successors, of our special grace, and of our certain knowledge and mere motion, grant to the aforesaid mayor, jurats and *com-*

monalty, and their successors, that these our letters patent, and all and singular the things therein contained, be and shall be from time to time good, sufficient, valid and effectual in the law, according to the true intent of these presents, notwithstanding the not naming, or not rightly or certainly naming, the aforesaid premises, or any part thereof, in their proper nature, kind, sort, quantity or quality; and notwithstanding the not reciting or not truly reciting the aforesaid several letters patent before mentioned, or any thing in the same contained, or any act, statute, ordinance, provision or restriction, or any defect, uncertainty or imperfection in these our letters patent, or any thing, cause or matter to the contrary thereof, notwithstanding: Also we will, &c. without fine in our Hanaper, &c. although express mention, &c. In testimony whereof, &c. witness, &c. And these our letters shall be to you in this behalf a sufficient warrant and discharge. Given under our signet at our palace of Westminster, the twelfth day of July, in the year of our reign of England, France and Ireland, the seventeenth, and of Scotland the fifty second. WINDEBANK.

To our well beloved and very faithful cousin and counsellor, Edward, Earl of Worcester, keeper of our privy seal.

1621—19 James I. The short charter of this date, which, in explanation of the last charter, authorizes the justices of *Kent* to intromit in Maidstone, and hold sessions for the trial of acts done *without* the town during the time of the sessions there, or in the face of the court, affects the present question and inquiry no farther than as it recites, and thereby confirms, the charter of 17th James I., and is besides, like all the former charters, a grant to the mayor, jurats and *commonalty*.

We have thought it proper to add a copy of this charter, lest it might be conceived that any thing necessary to elucidate this subject has been omitted.

The Second Part of the Patents of the 19th Year of the Reign of King James.

A declaration of the pleasure of the King to the justices of the county of Kent, concerning the privileges of the town of Maidstone.

The King, to all to whom, &c. greeting:—Whereas we, by our letters patent, sealed with our great seal of England, bearing date at Gorhambury, the 28th day of July, in the year of our reign of England, France and Ireland the *seventeenth*, and of Scotland the fifty-second, for the considerations in the same letters patent expressed and contained, did give and grant to the mayor, *jurats and commonalty* of the King's town and parish of Maidstone, in the county of Kent, and their successors, divers privileges, liberties, authorities and jurisdictions; and amongst other things, by the same letters patent, for the better preservation and conservation of the said town and parish, and the *inhabitants* of the same, in peace and good rule, of our special grace, and of our certain knowledge and mere motion, have willed, granted and ordained, that the mayor and recorder of the town and parish of Maidstone aforesaid for the time being, and two of the more ancient in degree and order of the jurats of the same town and parish for the time being, and each of them, and their successors, so long as they should respectively have and hold their offices and places, should and might be, and every of them should and might be, a *justice and justices of us*, our heirs and successors, *to keep the peace* of us, our heirs or successors, within the town and parish aforesaid, and to do, perform and execute all and singular the things which to the office of a justice of the peace of us, our heirs and successors, should pertain, as other the justices of the peace

of our county of Kent are accustomed to do and execute. And that no justice of the peace of our county of Kent aforesaid should in anywise intromit himself within the said town and parish of Maidstone aforesaid, to do any thing which to the office of a justice of the peace there should belong or pertain, as by the same letters patent, amongst other things, is more fully manifest and appears. And whereas certain *doubts and questions* have been lately stirred, moved and had upon the tenor and intent of the words in the aforesaid letters patent, as aforesaid specified, to wit, whether the justices of us, our heirs and successors, assigned and to be assigned to keep the peace in the county of Kent aforesaid, and also to hear and determine felonies and other misdeeds committed and to be committed in the same county, may intromit themselves within the town and parish aforesaid, without loss, prejudice, or impediment to the aforesaid mayor, jurats and commonalty, and their successors, in the liberties, privileges and jurisdictions to them so as aforesaid mentioned to be granted, or without loss, impediment or prejudice to the said justices of the aforesaid county of Kent to be done. We therefore, willing not that the justices of the said county, by us, or any others, in despatching the businesses touching the county aforesaid, be in any manner aggrieved or hindered, nor the justices of the aforesaid town and parish of Maidstone, in their liberties and privileges, contrary to the customs and rights of the same town and parish, be aggrieved; but that all such doubts and questions in the premises may hereafter be altogether removed, of our special grace, and of our certain knowledge and mere motion, do signify and declare it to be our pleasure and intent in the premises, and also at the humble petition of the aforesaid *mayor, jurats and commonalty* beseeching us in this behalf, have willed,

ordained, constituted and granted, and by these presents, for us, our heirs and successors, *do will, ordain, constitute and grant*, to the aforesaid *mayor, jurats and commonalty*, and their successors, that it may and shall be lawful to the justices of us, our heirs and successors, assigned and to be assigned to keep the peace in the aforesaid county of Kent, and also to hear and determine felonies, trespasses and other misdeeds committed and to be committed in the same county: Sheriffs, officers and ministers of us, our heirs and successors, for the time being, or any or either of them, *into the town* and parish of Maidstone aforesaid, from time to time, *to enter* and intromit themselves *to hold and keep general sessions* and sessions of the peace there, for the county aforesaid; and hereafter for ever, according to the law of our kingdom of England, to have and to hold general sessions and sessions of the peace for the said county of Kent; and then and there to hear, correct, punish and determine felonies, trespasses, contempts and other misdeeds, and all other things and businesses done in the same county without the town and parish aforesaid; and also to hear, correct, punish and determine felonies, trespasses, contempts and other misdeeds, and all other things and businesses during the time of the same sessions in the session aforesaid there, or in the face of the court chancing, arising, or happening. And that it may and shall be lawful to the aforesaid justices of the aforesaid county of Kent for the time being, and either or any of them, in the town and parish of Maidstone aforesaid, from time to time, to intromit themselves for the holding of, and there to hold, all other their meetings touching or concerning the public business of the said county happening without the town and parish aforesaid, or any of the sub-

jects of us, our heirs or successors, of the same county likewise happening without the said town and parish; and also at their pleasure to make, perform, ordain and fulfil all and singular other businesses concerning the gaol of us, our heirs and successors, of the county aforesaid, and of the house of correction, being within the town of Maidstone aforesaid, and the prisoners to the same gaol and house committed or to be committed, and the discharging and delivering of the same gaol and house, and either of them, in all things, and by all things, as fully, freely and entirely, and in as ample manner and form, as they or any the justices of the peace of the county aforesaid heretofore, within the town and parish aforesaid, used or were accustomed, or there might or ought to do and execute: our aforesaid letters patent, bearing date the aforesaid twenty-eighth day of July, or any thing in the same contained to the contrary thereof, notwithstanding. Also, we will, &c. without fine, in our Hanaper, &c. although express mention, &c. in testimony, &c. witness the King, at Westminster, the twenty-sixth day of July. By writ of privy seal, &c.

1623—
21 James I.

The return, of this date, of Sir George Fane and Sir Francis Barnham, knights, is made by the mayor, jurats and *commonalty* as before, and is *tested* by the mayor, jurats and *commonalty*, BURGESSES, who were present at the election.

The following is a copy of it:—

" Indenture between the sheriff and Grene, the
" now mayor of the borough of Maidstone, and the
" jurats and the *commonalty* of the same, whose names
" to this schedule are subscribed, who have elected
" George Fane and Francis Barnham, knights, bur-

" gesses of the borough aforesaid, to have power, for
" themselves and the *commonalty* of the borough
" aforesaid, to do, &c. In witness, &c. the mayor,
" jurats and *commonalty*, BURGESSES, who were
" present at the election aforesaid, have subscribed,
" &c."

This return is in a very decayed state; there are many signatures, but they are much obliterated.

The return to Parliament in this year was made by the mayor, jurats and *commonalty;* it is signed by many persons, but it is in a very decayed and obliterated state. 1625—23 James I.

The following entries appear in the corporation books of this time:—

" (Entred by master mayor's appoynment.)
" Memorand. That on Saturday the seaventh day of May, xxiiij Maii, 1625.
" 1625, at the schoolehouse, Mr. Edward Maplisden
" and Mr. Thomas Stanley, jurats, being p̃pounded
" by mr. mayor, upon the reading of the statute in
" j. H. V. and the p̃clamacon of our late Sou̅eigne
" Lord King James, in the first yeare of his reigne,
" for elecion of knights and burgesses for Parliament,
" weare chosen and elected burgesses for this towne
" and parish for this p̃sent Parliament now holden."

The next document, in chronological order, is a return of this date, which varies in form from some of the former, but is, no doubt, in substance the same; because there is no reason to believe that the electors had been changed: and which indeed could not have been done, according to the cases before cited, but by all the inhabitants. 1626—1 Charles I.

The indenture is between the sheriff and the mayor, whereby it is witnessed, that the election had been made by *fifty-eight* persons, who are named and described as

burgesses, with *other burgesses*, being the greater number; and the mayor appears to have fixed the common seal, with the assent of the burgesses.

The following is a copy of the return:

"Indenture made between the sheriff and the mayor
"(by name), witnesseth that Maplesden and
"Thomas Harley (or Stanley) by fifty-eight (names)
"*burgesses* of the town, parish and borough afore-
"said, and other *burgesses*, being the greater number,
"were elected, &c. The mayor puts the common
"seal, with the assent of the burgesses."

There is also another indenture in the same year, made by the mayor, jurats and *commonalty*, *burgesses of the borough and town, under their seal;* which appears to be in words the same as some of the former returns.

For greater certainty, we add a copy of this return:—

"Indenture between the sheriff and Thomas Harley,
"mayor of the town and borough, *jurats and com-*
"*monalty*, *burgesses* of the borough and town whose
"names are partly subscribed, witnesseth, that the
"mayor, jurats and *commonalty*, *burgesses* of the
"same, have elected Sir George Fane and Sir Fran-
"cis Barnham, knights, &c. to do, &c. for the afore-
"said mayor, jurats and *commonalty*, *burgesses*, *&c.*
"The mayor, jurats and commonalty put their seals."

There are several signatures affixed.

1629—3 Charles I. The return of this date omits any mention of the jurats or commonalty, and is made by the mayor of the borough and thirty-nine *burgesses* of the town, parish and borough, and other burgesses, being the greater number: and the mayor affixes the common seal, by *assent of the burgesses;* and it is signed by the mayor and thirteen others.

The following is a copy of it:—

" Indenture, dated 3d Car. between the sheriff and mayor
" (by name) of the borough, witnesseth, that Sir
" George Fane and Sir Francis Barnham, knights,
" by thirty-nine (names) *burgesses* of the town, pa-
" rish and borough aforesaid, and other burgesses,
" being the greater number, were elected burgesses
" to the Parliament, for the town, parish and bo-
" rough aforesaid. The mayor puts the common
" seal of the town, parish and borough, by assent of
" the burgesses."

(Signed by the mayor and thirty-nine other names.)

1641—15 Chas. I.

This return appears to correspond in every respect with the last, excepting that the names mentioned in the return are a few less, and the mayor only signs the return. For the reasons before stated, a copy of it is given; it is thus:—

" Indenture, dated 15th Car. between the sheriff and the
" mayor (by name) of the King's town and parish,
" witnesseth, that Sir George Fane and Sir Francis
" Barnham, knights, were elected by thirty-four
" (names) *burgesses* of the town and parish afore-
" said, (being the greater number,) burgesses of the
" town and parish aforesaid. The mayor puts the
" common seal with the assent of the burgesses."

The mayor's name only is signed.

N. B.—In this return the word "*burgess*" has been evidently erased in every place where it was used, and the word "*et*" interlined between town and parish, in this manner—"Vill. $\frac{et}{,}$ Poch. et Burg."

1642—16 Chas. I.

The return of this year is, in effect, the same as many of the preceding. The following, however, is a copy of it:

"Indenture between the sheriff and the mayor, (by name.)
"Sir Francis Barnham and Humphrey Tufton, elected
"by 36 (names) *burgesses* of the town and parish afore-
"said, and others, being the greater number bur-
"gesses of the town and parish aforesaid. The mayor
"puts the common seal, with the assent of the bur-
"gesses."

The subsequent returns have not been obtained, from the great expense in procuring copies of them; but, in all probability, they will be found in every respect to correspond with the former, unless any return during the Commonwealth, or that to the Prince of Orange's letter, should be made by the *inhabitants*.

1644—20 Chas. I.

The admission of Ann Halsnod to her freedom this year, is a material fact to show that the admission to the freedom of the town did not make a person a member of the corporation, because there is no instance to be found of a female being a member of the corporation of a town, nor of their being burgesses; which strikingly coincides with the law of the court-leet, by which they were exempted from suit at that court. Brit. ch. 12 and 29.—Horn's Mirror of Justices, chap. 4, sect. 27. 1 chap. sect. 3 and 17.—Bract. 3 lib. cap. 11, 14; and the fine imposed on Lucy Sudyer and Margaret Rann, for exercising a trade without taking up their freedom, is decisive to show that these proceedings (as observed before) referred to trade alone.

The following are the entries alluded to:

"Maidstone (Ss.) Court of Burghmote, holden 15
"January, 1644, before Mr. Caleb Bankes, mayor.
"*Ann Halsnod, free.*—At this court, Ann Halsnod, her
"fine assessed at 40*s.* whereof she paid 20*s.* in hand,
"and promised to pay 20*s.* more at Michaelmas
"come twelve month, was made free, *she being the*

"*eldest daughter of a freeman*, and having no brother "to be made free."

"*Luce Sudyer, Margaret Rann*, fined for exercising "a trade without taking up their freedom."

20th June.—At an adjourned burghmote, an order is made for a warrant of attorney to surrender the charter. Our copy of the entry of such order is silent as to the number of the jurats present at the court making such order. If there were not a majority of the 13 jurats present, the order would be void; and it might be very questionable whether the mayor and jurats, although they had by the charter the power of making statutes and ordinances for the regulation of the town, were authorized to direct the surrender of the charters, without the express consent of the inhabitants at large. 1682—34 Chas. II. Rex v. Bellringer.

The entry is as follows:

"Maidstone (Ss.) At an adjourned Court of Burgh- "mote then holden, the 20th day of June, A. D. 1682, "and in the 34 Car. II. Robert Sanders, mayor, and "jurats appearing.

"It is ordered at this court, that there be a letter of "attorney made unto Edmund Wiat, Esq. for us and "on our behalfs to surrender unto the King's most ex- "cellent Majesty, the charter or charters of our corpo- "ration; and for so doing the said letter of attorney "shall be his sufficient warrant; which letter of attor- "ney was made and done accordingly."

N. B. It is presumed, that this was done in order that all the charters and bye-laws formerly granted and made, might be revived in the charter then about to be granted.

It certainly appears that the mayor and jurats assumed to themselves the power of surrendering the charters, as the next document we have to notice is the charter of 34 Car. II. which recites that the mayor, jurats and com- 1682—34 Chas. II. 26 October.

monalty had surrendered their former charters to the King, and which surrender had been accepted by his Majesty.

Maidstone is not included in the number of places mentioned in King James's proclamation as having enrolled their surrenders; and the fact is, that it was not enrolled; and upon the authority of the cases of Butler and Palmer, 1 Salkeld 191; Piper and Dennis, 12 Modern, 253; and Rex *v.* Osborne, 4 East, 327; this charter is void, as granted upon a surrender void for want of enrolment: and it is conceived that the courts of law would be disposed so to treat this charter from its containing the clause for the removal of the officers of the corporation at the will of the Crown, which has been so much discountenanced by the courts in Westminster Hall: and although such a clause was, in the case of Rex *v.* Amery, 2 Term Reports, incidentally held not to make the charter void, yet the judgment of the Court of King's Bench in that case was subsequently reversed: and, upon the whole, it seems probable that the charter is void.*

The first material distinction to be observed, between this charter and the former, is, that in the recital and the incorporating clause, all mention is omitted of the *inhabitants*, as was usual in the charters of this reign, when it is most notorious that the policy of the Crown was to exclude the general body of the inhabitants from the incorporations, and to limit them to as small a body as possible, and those frequently non-residents, (the officers of state, or the dependants of the Crown,) for the purpose of securing the King's influence over the corporations; of which there are abundant instances.

* In Newton's History of Maidstone, (1741,) it is stated that the former charters were not legally surrendered, and that this new one was rather designed to serve a party interest than the common good of the corporation, to which it seemed to be of no real advantage, and that they had declined acting upon it ever since the Revolution.

In pursuance of that policy, this, which was before an incorporation of the *inhabitants,* by the name of the mayor, jurats and commonalty, is now an incorporation of the mayor, jurats and commonalty, by the name of the "*mayor and aldermen:*" a mode of incorporation which, it was well known, might be construed to apply to the smallest select body; for although the word "commonalty," when used, as it was in the former charters, expressly as the corporate name of the inhabitants, cannot, without enforced construction, contrary to the clear intention of the charter, be construed to mean any select part of the inhabitants; yet, with the omission of all mention of inhabitants, and applying it only to an incorporation of the mayor and aldermen, it was obvious that it was capable of being applied to any select body which might be created.

There is no stronger circumstance to show that the former charters were general charters of incorporation of the inhabitants, without any select body, than this change of language, adopted in this arbitrary charter; the object of which cannot be mistaken.

Corporate powers.

The usual corporate powers are given in this charter in much the same form as in the preceding charter.

Twelve Aldermen.

After which, it directs that there shall be twelve *inhabitants, continually inhabiting and dwelling within* the town and parish, *(besides the mayor,)* who are to be *aldermen;* that term being for the first time substituted in the place of jurat.

Twenty-four common councilmen.

And that there shall be 24 men, *inhabiting and dwelling* within the town and parish, who shall be called the common council, with the aldermen. The common councilmen of 24 being here first mentioned in this charter as a component part of the corporation.

This is the first place in which the common council is mentioned in any *charter.* That body was created by

a bye-law, in 1606, 5 James I. (as has been before observed, and its probable illegality has been pointed out.) It should be noted that no mention whatever is made of the common council in the charter of the 17th James I., which may have been another reason why the select body did not act upon that charter, inasmuch as it did not recognize the common council; which body was, in those times, the usual instrument by which the corporations were subjected to the control of a small self-elected junto.

However, the common council could not long have had any legal existence by charter; as this charter was declared void at the Revolution.

Bye-laws.

The charter then proceeds to grant to the *mayor and aldermen*, that the *mayor and common council* may make bye-laws, and also regulations for the leasing and demising of the lands of the corporation; and that they may impose fines and penalties for enforcing the bye-laws.

First mayor, aldermen, and common council.

The first mayor, aldermen and common council are then mentioned in the usual manner.

Annual election of mayor.

The annual election of mayor is then directed to be made by the mayor and aldermen, (as by the jurats before, by the charter of Elizabeth and 2 James I.,) naming two aldermen, or any inhabitants having lands or tenements of free tenure for life at the least; to the intent that the other *inhabitants* of the town having freeholds might elect one.

This clause, in conformity with the charters of Edward VI., of Elizabeth, and of 2 James I., further requires that the electors should be freeholders; but, like the charter of 17 James I., it does not expressly make the qualification of being a *freeman* necessary; a circumstance material to be considered with reference to the charters before stated.

This election is, in effect, required to be made in the same manner as the annual election. Election of mayor on vacancy.

The election of aldermen, upon vacancies caused by the death or removal of any alderman, is directed (as by the 17th James I.) to be made by the mayor and aldermen from the *inhabitants* of the town, without requiring any qualification, either of freehold or being a freeman. Election of aldermen.

The elections of common councilmen are to be made in the same manner, and from the same persons, as the aldermen. Election of common councilmen.

And both the aldermen, and common councilmen, are made removable for misgovernment, not dwelling within the town, or for any other lawful cause.

The election of a recorder, and the making a deputy mayor, in case of sickness, or the absence of the mayor, allowed for any reasonable cause, are provided for, as well as that of a deputy-recorder. Recorder. Deputy mayor. Deputy recorder.

The grants of the markets, fairs, court of Pie Powder and view of frankpledge are renewed, with some alterations. Fairs, &c.

The election of members of Parliament (for which no provision was made in the charter of 2 James I., it being merely enumerated amongst the privileges confirmed by that charter; nor is any mention at all made of it in the charters of the 17th and 19th of the same King,) is here expressly provided for, and directed to be made by the mayor, aldermen, common councilmen, and also the freemen of the town and parish having lands and tenements of freehold in their own proper right for term of their lives at least. Members of Parliament.

The charter of Elizabeth placed the right in the mayor and *commonalty*, which, as was observed before, was the corporate name for the *inhabitants:* and it has been already seen in what manner that right was exercised, namely, by the *commonalty;* it has also been shown to

have been once actually exercised *at the leet;* and afterwards the electors were characterized by the appellation of the *good and lawful men of the town.*

For the reasons given before, those returns show that the elections were by the *inhabitants,* or at least by a more general body than that portion of the inhabitants (namely, the freeholders) pointed out by this clause; and if so, it is clear, on the authority of the Chippenham case, in Gloucester, and the 4th Instit. 48, that this clause could not have affected the Parliamentary right of election, even if the charter had not been void.

Mayor clerk of the market.

The next clause appoints the mayor clerk of the market.

After which clause follows the objectionable provision for the removal of the mayor, recorder, common clerk, and either of the justices, at the will of the Crown; a clause which goes the length of leaving the corporation entirely under the power of the Crown; because, inasmuch as the mayor and recorder are at every meeting of the corporation made of the quorum, if they were not present, the corporation could not proceed; they could, therefore, by absenting themselves render any act nugatory, and their assent to, or dissent from, any act must be at all times insured by the Crown, otherwise they would be removed. Hence these clauses have, from their arbitrary and unconstitutional character, been treated as void; and it has been even questioned whether such an illegal clause did not vitiate the whole charter.

Common clerk.

A common clerk is then appointed, and provision made for the election of another, and also of a deputy.

Mortmain.

A licence of mortmain is also added.

Freemen.

After which follows the clause for making freemen; in substance and effect the same as the corresponding clause in 17 James I., except that the power of making

them is here given to the mayor, aldermen and common council; and by the former charter it was given to the mayor, jurats and commonalty.

The observations made on the former charter, with respect to this clause, would be also applicable to this.

A court from fourteen days to fourteen days is granted; the bounds of the borough are set out with great particularity; and the extent of the court's jurisdiction particularised. Court.

The clause for the exemption from juries gives that privilege to every *inhabitant* of the town and parish; which affords an inference that at this time, as well as in the reign of Queen Elizabeth, it was thought that the *inhabitants* were the persons entitled to the privileges granted by the charter. Exemption from juries.

Six justices are appointed, with an addition of a non-intromittant clause, as to the justices of the county of Kent: notwithstanding the charter of 19 James I. had expressly given them a limitted jurisdiction within the town. Justices.

The provisions as to their jurisdiction; the application of the fines; the appointment of a coroner and his deputy; the grant of felon's goods; the return of writs; wharfage, anchorage, and the privilege of having and preserving swans; afford no inference affecting the present inquiry.

The clause granting and enumerating the customs, states it to be for *the good estate of the town and parish and the inhabitants* there. Customs.

And the concluding clause of the charter, which gives power to the mayor and aldermen to make assessments for the *advantage of the town and parish and the inhabitants*, enables them to impose the assessment on every *inhabitant;* a power which the King did not possess him- Assessments.

self, and could not grant to others, without the consent of the persons upon whom the assessment was made; that consent would, indeed, be implied by the acceptance of the charter; but then the acceptance would be by the whole of the *inhabitants;* and if they all accepted the charter, it seems difficult, as has been observed before, to say how any select body could afterwards be separated from the body at large without an express charter to warrant it.

In order that our readers may be enabled to put their own constructions upon this charter, as upon the former ones, we subjoin a copy of it.

The Eighth Part of the Patents of the Thirty-fourth Year of the Reign of King Charles the Second.

Of a charter to the mayor and aldermen of the King's town of Maidstone, to them and their successors for ever.

The King, to all to whom, &c. greeting. Whereas our King's town and parish of Maidstone, in our county of Kent, is an ancient and populous town, and hath been a town incorporated, and the mayor, jurats and commonalty of the town and parish aforesaid, and their successors, have had, held, used and enjoyed divers liberties, franchises, privileges, immunities and pre-eminences, *by charters* of divers of our progenitors and predecessors, Kings and Queens of England, to them *heretofore* made and granted and confirmed; and whereas we are informed that there are certain *ambiguities* in many charters and letters patent to them heretofore made, by reason that some things in the same contained were not fully expressed nor granted by words sufficiently apt, for the good rule and government and advantage of the town and parish aforesaid, according to the true intent of the same charters or letters patent; and whereas our beloved subjects the mayor, jurats and commonalty of the

town and parish of Maidstone aforesaid, *have surrendered to us the letters* patent and charters aforesaid, and all their liberties, immunities and privileges whatsoever, (and which surrender we *have accepted, and* by these presents do accept,) and they have humbly besought that we would vouchsafe to *grant anew* all and singular their grants, liberties, immunities and privileges aforesaid, with the *addition,* increase, *alteration* and explication of certain liberties, grants, privileges, immunities and franchises as to us should seem more expedient for the public good and common utility of the same town and parish; know ye therefore, that we, desiring the increase and amendment of the town and parish aforesaid, and also the good name, estate and government of the same, as aforesaid, and willing that hereafter for ever there may be continually had in the same town and parish, and in the precincts of the same, one certain and undoubted manner and form of and for the keeping of the peace and good rule and government of the people there, and that the town and parish aforesaid, hereafter for ever, be, shall be and remain a town and parish of peace and quietness, to the terror of the evil and reward of the good, and that our peace and other acts of justice there without further delay may be observed, of our special grace, and of our certain knowledge and mere motion, have willed, ordained, constituted, declared and granted, and by these presents, for us, our heirs and successors, do will, ordain, constitute, declare and grant, that the said town and parish hereafter be and shall be *a free town* and parish of itself, *and that the mayor, jurats and commonalty* of the town and parish aforesaid, from the time of the surrender aforesaid, by whatsoever name they were heretofore *incorporated,* and their successors hereafter for ever, be and shall be, by force of these presents, one body corporate and politic,

Surrender.

Mayor, jurats, and commonalty incorporated

in deed, fact and name, by the name of *the mayor and aldermen of the King's town and parish of Maidstone,* in the county of Kent, and them by the name of the mayor and aldermen of the King's town and parish of Maidstone, in the county of Kent, into one body corporate and politic, in deed, fact and name, we do really and fully, for us, our heirs and successors, erect, make, ordain, constitute, confirm and declare by these presents; and that by the same name they may have *perpetual succession;* and that they, by the name of the mayor and aldermen of the King's town and parish of Maidstone, in the county of Kent, be and shall be at all times hereafter for ever, persons able, and in the law *capable,* to have, acquire, receive and possess lands, tenements, liberties, privileges, jurisdictions, franchises and hereditaments, of whatsoever kind, nature, or sort they shall be, to them and their successors, in fee and perpetuity, and also goods and chattels, and other things whatsoever, of whatsoever kind, nature, or sort they shall be, and also to give, grant, demise and assign lands, tenements and hereditaments, goods and chattels, and all and singular other deeds and things to do and execute by the name aforesaid; and that, by the same name of the mayor and aldermen of the King's town and parish aforesaid, they may and shall be able to *plead and be impleaded,* answer and be answered, defend and be defended, in any the courts and places whatsoever, and before any the judges and justices, and other persons and officers whomsoever, of us, our heirs and successors, in all suits, plaints, pleas, causes, matters and demands, real, personal and mixed, and other things whatsoever, as well spiritual as temporal, of what kind, nature, or sort soever they may be, in the same manner and form as any our liege subjects of this our kingdom of England, persons able and in the law capable, may and shall be able to

mayor and aldermen of the King's town and parish.

Perpetual succession.

Capable.

Plead.

plead and be impleaded, answer and be answered, defend and be defended, and to have, *acquire, accept, possess, give, grant and demise:* And that the mayor and aldermen of the town and parish aforesaid, and their successors, may have for ever *a common seal,* to serve for the doing of the causes and businesses whatsoever of them and their successors; and that it may and shall be lawful to the same mayor and aldermen, and their successors, the same seal, at their pleasure from time to time, to break, change and make anew, as to them shall seem better to be and to be done. And further, we will, and by these presents, for us, our heirs and successors, grant and ordain, that hereafter for ever there be and shall be, within the town and parish aforesaid, *one* of the more honest and discreet *aldermen* of the town and parish aforesaid in form hereunder in these presents mentioned, to be elected, who shall be and shall be called *mayor* of the town and parish aforesaid; and that likewise there be and shall be *twelve inhabitants of the town and parish aforesaid, and continually inhabiting and dwelling within the town and parish aforesaid, besides the mayor* of the town and parish aforesaid, in form hereunder in these presents mentioned to be elected, who shall be and shall be called *aldermen* of the town and parish aforesaid. And that likewise hereafter for ever, there be and shall be, within the town and parish aforesaid, from time to time, *twenty-four men inhabiting and dwelling* within the town and parish aforesaid, in form hereunder in these presents mentioned to be elected, who shall be and shall be called *the common council* of the town and parish aforesaid. And we will, and by these presents, for us, our heirs and successors, grant that the aforesaid *aldermen* and *twenty-four* of the town and parish aforesaid for the time being shall be and shall be called the *common coun-*

Common seal.

One alderman, mayor.

Twelve inhabitants continually inhabiting and dwelling.

Aldermen.

Twenty-four men inhabiting and dwelling, common-council,

with the twelve aldermen.

cil of the town and parish aforesaid, and shall be from time to time *assisting and aiding* the mayor of the same town and parish for the time being, in all causes and matters touching or in anywise concerning the town and parish aforesaid. And further, we will, and by these presents, for us, our heirs and successors, grant to the mayor and aldermen of the town and parish aforesaid for the time being, and their successors, that the

Common council make bye-laws.

mayor of the town and parish aforesaid for the time being, *and such of the town* and parish aforesaid for the time being, *who may be*, or hereafter shall be, and shall be *called the common council* of the town and parish aforesaid, or the greater part of them (of whom the mayor for the time being we will to be one) may have *and shall have full power* and authority to frame, constitute, ordain and make, from time to time, such reasonable *laws, statutes and ordinances* whatsoever, as to them, according to their sound discretions as aforesaid, shall seem to be good, wholesome, useful, honest and necessary for the good rule and government of the *artificers* and *inhabitants* of the town and parish aforesaid for the time being, and for declaring in what manner and order the aforesaid mayor, aldermen, commonalty, artificers, *inhabitants* and *residents* of the town and parish aforesaid shall conduct, behave and use themselves in their offices, ministries and businesses within the town and parish aforesaid and the limits of the same, and otherwise for the further good and public utility, rule and government of the town and parish aforesaid, and the victualling of the same, and for raising of moneys to the use *and behoof* of us, our heirs and successors, or to the necessary uses of the town and parish aforesaid. *And* also, for the better preservation, government, disposition, *leasing and demising of the lands*, tenements, possessions, rents, revenues and hereditaments to the aforesaid mayor, al-

dermen, and their successors, by these presents or otherwise given, granted, assigned or confirmed, or hereafter to be given, granted or assigned; and for the accounts, things and other causes whatsoever of the town and parish aforesaid, or touching or in anywise howsoever concerning the estate, right or interest of the same town; and that the mayor of the town and parish aforesaid for the time being, *and such aldermen and inhabitants of the town and parish aforesaid for the time being, who are or hereafter shall be and shall be called the common council of the town and parish aforesaid, or* the greater part of them, for the time being, (of whom the mayor for the time being we will to be one,) so often as they shall frame, make, ordain and establish such laws, statutes and ordinances so as aforesaid, in form aforesaid, may impose *and assess such* and the *like reasonable pains, penalties,* punishments and imprisonments of the body, or by fines and amerciaments, or either of them, against or upon *all offenders against* such laws, statutes and ordinances, or either or any of them, as and which to the same mayor and aldermen for the time being, and to *such* INHABITANTS of the town and parish aforesaid for the time being, who are or hereafter shall be and shall be called the *common council* of the town and parish aforesaid, or the greater part of them, (of whom the mayor of the town and parish aforesaid for the time being we will to be one,) shall seem to be reasonable and requisite; and the same fines and amerciaments by distress or other lawful manner whatsoever, to the proper use and behoof of the mayor and aldermen of the town and parish aforesaid, and their successors, without account or any other thing to us, our heirs or successors, to be therefore rendered, shall and may be able to levy and have, without the impediment of us, our heirs or successors; all and

singular which laws, statutes and ordinances so as aforesaid to be made, we will, for us, our heirs and successors, to be observed, under the pains in the same to be contained; so nevertheless that such laws, statutes, ordinances and imprisonments, fines and amerciaments, be reasonable, and not repugnant nor contrary to the laws or statutes of this our kingdom of England. And for the better execution of the same our grants in this behalf, we have assigned, constituted, named and made, and by these presents, for us, our heirs and successors, do assign, constitute, name and make our beloved Robert Saunders, the younger, esquire, to be the

First mayor. *first and present mayor* of the town and parish aforesaid, willing that the same Robert Saunders, the younger, shall be and continue in the office of mayor of the same town and parish, from the making of these presents unto Monday next after the feast of Saint Andrew the Apostle next coming, and thenceforth until another to the same office of mayor of the town and parish aforesaid shall be appointed and sworn, according to the ordinance and constitution hereunder in these presents expressed and declared, if the same Robert Saunders shall so long live, having first taken *an oath* upon the holy evangelists of God, before Edwin Wyatt, esquire, or Samuel Wood, esquire, well and faithfully to execute the said office of mayor, and to which Edwin Wyatt, or to the aforesaid Samuel Wood, we grant power, by these presents, to administer such oath. Also we have assigned, named, constituted and made, and by these presents do

First thirteen (including the mayor) aldermen. assign, name, constitute and make, the aforesaid Robert Saunders, and our beloved the aforesaid Samuel Wood, Garret Callant, John Duning, John Lanes, George Walker, William Weldish, Francis Curteis, Thomas Blisse, George Peirce, Robert Salmon, John Fowle, and

Thomas Marshall, to be the first and present aldermen of the town and parish aforesaid, to continue in the same offices *during their lives*, unless in the mean time, for misgovernment or misbehaving themselves in that behalf, *or for not* INHABITING *and* DWELLING *within* the town and parish aforesaid, from their offices they or any or either of them shall be *amoved*. Also, we have assigned, named, constituted and made, and by these presents, for us, our heirs and successors, do assign, name, constitute and make, our beloved John Viney, Richard Wattell, William Russell, Richard Heeley, John Newington, John Cary, John Peirce, John Greenell, Robert Pangborne, Thomas Hope, Stephen Fowle, Thomas Harris, George Hodges, Alexander Osborne, John Tonge, Robert Brooke, the elder, Richard Musserey, Walter Weeks, George Webb, Stephen Osborne, George Manly, Matthew Chaundler, John How and Daniel Hope, to be the first and present *common council of the town and parish* aforesaid, to continue in the same offices *during their lives*, unless in the mean time, for misgovernment or misbehaving themselves in that behalf, OR FOR NOT INHABITING OR DWELLING *within the town and parish*, from the same office they or either or any of them shall be amoved; and which aldermen and several persons of the common council before mentioned shall, and every of them shall, take their and his corporal *oath* before the aforesaid Robert Saunders, now mayor of the town and parish aforesaid, well and faithfully to execute their offices respectively; and to which Robert Saunders we grant, by these presents, power and authority to administer the oaths aforesaid. And further, of our grace, certain knowledge and mere motion, we do, for us, our heirs and successors, grant to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, that

First twenty-four for common-council.

Oaths.

the *aldermen* of the said town and parish and the *mayor* aforesaid for the time being, from time to time, in every year henceforth and hereafter for ever, on Monday *next after the feast of Saint Andrew the Apostle, may assemble in some convenient place by them assigned*, according to their pleasure, within the said town of Maidstone, and there nominate and assign two men then being *aldermen of the said town and parish*, OR *of other persons* INHABITING *in the same town or parish, and having lands or tenements of free tenure called freehold in their own right, for term of their life at the least, to the intent and purpose that the said other persons so inhabiting the said town or parish, and having lands or tenements of freehold aforesaid, then there present, or the greater part of them, may elect a man out of the same two aldermen or inhabitants so named and appointed, to be named and appointed to bear the office of mayor of the said town and parish, and to be mayor of the same town and parish for the year then following;* and that he of the said two so named and appointed to be named and appointed, who by the said other persons so *inhabiting* and having lands or tenements of freehold, or by the greater number of the same persons then there present, shall be elected to the office of mayor of the same town and parish for *one whole year* then following, if he shall so long live; and that the same person so elected to be mayor of the town and parish aforesaid, and every other person who shall be so elected to be mayor of the said town and parish, shall take a corporal *oath* before his *last predecessor* in the same office, if the same his predecessor shall be then living and then present in the said place where the election aforesaid shall be so made, and if his predecessor shall be then dead or absent, then *before other the aldermen* of the town and parish aforesaid then there present, for the faithful execution and

Annual election of mayor.

Oath.

true use of the said office, in the like manner and form as the *mayor of our city of Canterbury* is accustomed to swear. And moreover, we will and grant to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, by these presents, that if and so often as it shall happen from time to time that any person being mayor of the town and parish aforesaid, shall DIE during the time in which he shall be mayor of the town and parish aforesaid, *or from his office* aforesaid shall be AMOVED within a year next after his election and admission, that then and so often the *aldermen* of the said town and parish for the time being, from time to time for ever, at such time when to the said aldermen for the time being, or the greater part of them, it shall seem good and expedient, may meet in a convenient place within the town aforesaid by them to be assigned at their pleasure, and there *nominate and appoint two* persons then being *aldermen* of the same town and parish, OR *other persons inhabiting* in the aforesaid town and parish, *and having lands or tenements in freehold as aforesaid* then there present, to the intent and purpose that the SAID *other persons*, or the greater part of them, may elect one out of the same two aldermen or inhabitants so nominated and appointed to bear the office of mayor of the said town and parish, and to be mayor of the same town and parish thenceforth unto Monday next after the feast of Saint Andrew the Apostle then next following, and on and from the same day until another person shall be elected to be mayor of the same town and parish; *and* that the said *other persons inhabiting* in the same town or parish of Maidstone, and *having lands or tenements of freehold, then and there present, or the greater part of them*, may elect one out of the same two aldermen or inhabitants so named and assigned to the office of mayoralty of the said town

As at Canterbury.

Election of mayor on vacancy.

or parish from the same time unto the aforesaid Monday next after the feast of Saint Andrew the Apostle then next following; and that he so elected to the office of mayor from the same time unto the aforesaid Monday next after the feast of Saint Andrew the Apostle then next following, and on and from the same day *until a new mayor* in the same town and parish shall be elected, [shall execute the office of mayor in the same town and parish until a new mayor in the same town and parish shall be elected;*] and that the same person so elected, and every person who shall be so elected to be mayor of the town and parish aforesaid, shall take a corporal *oath before other the aldermen* of the same town and parish then and there present, for the faithful execution and true use of his said office, in manner and form aforesaid. Also, we will, and for us, our heirs and successors, of our grace, certain knowledge and mere motion aforesaid, grant, by these presents, to the aforesaid mayor and aldermen aforesaid, and their successors for ever, that so often as it shall happen that *either of the aldermen* of the said town and parish for the time being *shall die*, or from the office of alderman of the town and parish aforesaid *be amoved*, that then and so often it shall be lawful to the mayor and aldermen of the said town and parish, or the greater part of them, for the time being, from time to time for ever, at such times as to them shall seem good and expedient, in a convenient place by them assigned at their pleasure, within the said town to meet, and there elect and name *one or more other persons then inhabiting within* the same town or parish, to be *an alderman of* the town and parish aforesaid. And that every person so elected and named to be an alderman of the said town and parish, from the time of such election, shall be an alderman of the same town and parish, if it shall so seem good to the mayor,

Election on vacancies of aldermen.

* These or similar words are omitted in the charter.

other the aldermen and common council, or the greater part of them, during his or *their life* or lives. Also we will, and for us, our heirs and successors, of our grace, certain knowledge and mere motion, grant, by these presents, to the aforesaid mayor and aldermen, and their successors, for ever, that so often as it shall happen that either of *the common council* of the town and parish aforesaid for the time being shall *die*, or from the office of common council of the town and parish aforesaid *be amoved*, that then and so often it shall be lawful to the mayor and aldermen of the said town and parish aforesaid, or the greater part of them for the time being, from time to time for ever, at such times as it shall seem good and expedient, in some convenient place by them assigned at their pleasure, within the said town, *to meet, and there elect and nominate one or more other person or persons, then inhabiting within the same town or parish, to be of the common council of the town and parish aforesaid;* and that every person so elected and named to be of the common council of the town and parish aforesaid, from the time of such election, shall be of the common council of the same town and parish, if it shall so seem good to the mayor, other the aldermen and common council, or the greater part of them aforesaid, during his or their *life or lives;* and that if any crime or sufficient and notable default shall be found in any alderman, or in any of the common council there, that then the same mayor, aldermen and common council of the town and parish aforesaid for the time being, or the greater part of them, may *amove and expel* him from the office of alderman, or of common council, of the town and parish aforesaid, and in his stead may elect, make, and appoint another, in form aforesaid. And that every person or persons so elected and appointed, shall, and every of them shall, take a corporal *oath* before the mayor of the town and parish afore-

Election on vacancies of the twenty-four common councilmen.

Oath.

said for the time being, well, rightfully and faithfully to execute their office, and from thenceforth he and they may and shall have and exercise his and their offices aforesaid, respectively, for their lives *unless for misgovernment, or not dwelling within* the town and parish aforesaid, *or for any other* lawful causes as aforesaid, they, or either of them, shall *be amoved* from the aforesaid place; and so as often as the case shall thus happen. And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, that they, and their successors hereafter for ever, may have and shall have, as anciently they have had, within the town and parish aforesaid, one honest and discreet man, learned in the laws of England, in form hereunder in these presents to be elected, who shall be and shall be called *recorder* of the town and parish aforesaid; and for the better execution of our will and grant in this behalf, we have nominated, appointed, constituted and made, and by these presents, for us, our heirs and successors, do nominate, appoint, constitute and make, our beloved Edwin Wiatt, esquire, to be the present recorder of the town and parish aforesaid, to be continued in the same office during his natural life, unless for misbehaving himself in the same office, or for some other reasonable cause, [he shall be amoved.] And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid *mayor and aldermen* of the town and parish aforesaid, and their successors aforesaid, that, from time to time, and at all times *after* the death or resignation of the office of recorder aforesaid, or amotion from the said office by the aforesaid Edwin Wiatt, it may and shall be lawful to the *mayor and aldermen* of the town and parish aforesaid for the time being, *or the greater part of*

Recorder

Election on vacancy.

them, (of whom the mayor for the time being we will to be one,) in any convenient place *within* the town and parish aforesaid, by the mayor to be assigned, to elect and appoint *one other honest and discreet* man, learned in the laws of England, to be *recorder of the town* and parish aforesaid, to continue in the same office so long as he shall well behave himself in the same office; and so as often as the case shall thus happen, and that he who shall be elected, appointed and named to the office of recorder of the town and parish aforesaid, at any time or times hereafter for ever to the same office of recorder of the town and parish aforesaid, before he be admitted to execute the same office, shall take a corporal *oath before the mayor* of the town and parish aforesaid for the time being, in and by all things rightly, well and faithfully to do and execute, all and singular the things which to the said office of recorder of the town and parish aforesaid pertain. And to which mayor for the time being we do grant, by these presents, for us, our heirs and successors, power and authority to administer such oath to the recorder of the town and parish aforesaid for the time being. And that hereafter he may and shall be able to have, exercise, use and enjoy the same office of recorder of the town and parish aforesaid. And further we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, that if it shall happen that the mayor of the town and parish aforesaid for the time being shall so labour under *sickness*, that he cannot attend to the necessary businesses of the town and parish aforesaid, *or be allowed to quit the town and parish aforesaid, for any reasonable cause*, by the mayor and aldermen of the town and parish aforesaid for the time being, or the greater part of them, (of whom the *mayor* for the time being we will to be one,) that

Oath.

In sickness or absence of the mayor, one of the aldermen to be his deputy.

then and so often, from time to time, it may and shall be lawful to the mayor of the town and parish aforesaid for the time being to make and constitute, from time to time, *one of the aldermen* of the town and parish aforesaid for the time being to be the *deputy of the same mayor* for the time being, so labouring under sickness, or for any reasonable cause, so as aforesaid, allowed to be absent, to be continued in the same office of deputy mayor of the town and parish aforesaid, in the *absence or sickness* of the mayor of the town and parish aforesaid for the time being, *during the pleasure of the same mayor* of the town and parish aforesaid for the time being; and which deputy mayor of the town and parish aforesaid, so as aforesaid to be deputed and constituted to be deputy mayor of the town and parish aforesaid for the time being, may and shall be able to do and execute all and singular those things which to the office of mayor of the town and parish aforesaid, within the town and parish aforesaid, pertain, and ought to pertain, to be done and executed *during the pleasure of the mayor* of the town and parish aforesaid, in the *absence* or sickness of the same mayor, as fully, freely and entirely as the mayor of the town and parish aforesaid for the time being, if he were present, might, and might be able to do and execute; and so as often as the case shall thus happen. Also, we will and grant, that if it shall happen that the *recorder* of the town and parish aforesaid for the time being, at any time shall so labour under *sickness* that he cannot attend to the necessary businesses of the town and parish aforesaid, *or* if he be *absent* from the town and parish aforesaid *by reason of the King's businesses, or* FOR ANY OTHER REASONABLE CAUSE by the mayor and aldermen aforesaid to be allowed, then it may and shall be lawful to the recorder of the town and parish aforesaid for the time being *to depute and name* a man, honest and learned in the laws of England,

Recorder—same.

his deputy, to be continued in the same office *during the pleasure* of the recorder of the town and parish aforesaid for the time being: Provided always, and we will, that the said deputy-mayor and deputy-recorder of the town and parish aforesaid for the time being shall take a corporal *oath*, before the *mayor of the town* and parish aforesaid for the time being, well and faithfully to execute the offices aforesaid, respectively, before they enter into the aforesaid several offices of deputy-mayor and deputy-recorder, and so as often as the case shall thus happen. And we will, and, by these presents, for us, our heirs and successors, of our special grace, and of our certain knowledge and mere motion, have given and granted, and, by these presents, do give and grant, to the mayor and aldermen of the town and parish aforesaid, and their successors, *one market* WITHIN the aforesaid town of Maidstone, in a certain place there commonly called the Market-place, to be held and kept on Thursday in every week, hereafter, for ever, with all *tallages*, *customs* and *other profits* to market belonging, and also *four fairs* or feasts, to be held and kept in the aforesaid town of Maidstone, in such place where the mayor of the same town and parish for the time being, by proclamation to be therefore made, may assign them to be held, within the same town or parish; to wit, one thereof to begin, in every year hereafter for ever, at the noon of the last day of April, and to continue until the noon of the second day of the month of May then next following; another thereof to begin, in every year hereafter, upon the sixth day of October, to continue for two days; and another thereof to begin, in every year hereafter for ever, at the noon of the day of the vigil of the feast of the Purification of the blessed Virgin Mary, and to continue until the noon of the morrow of the same feast next following;

Oaths.

Market.

Four fairs.

and the other to begin, in every year hereafter for ever, on the twelfth day of September, and to continue six days, for the selling and buying of all and all manner of cattle, hops and thread only; but if either of the aforesaid days shall happen to be Sunday, then to be held on and upon the day next following: together with all and singular *tolls, stallage* and other things whatsoever, arising or growing from the said fairs or feasts, and every of them, or by reason of the said fairs or feasts, or either of them;

Pie Powder.

and a *court of Pie Powder* in the fairs and market aforesaid, and every of them, to be held: And *all fines and amerciaments, forfeitures, profits* and emoluments, as well within the aforesaid court of Pie Powder as by reason or occasion of the same coming, growing and arising. And that it may and shall be lawful to the aforesaid mayor and aldermen of the town and parish aforesaid for the time being, and their successors, if to them it shall so seem expedient, at their pleasure, from time to time, to extend the market aforesaid beyond the aforesaid place called the Market-place, or in some other convenient place WITHIN the town aforesaid the same market to hold and keep: Willing also, and by these presents, for us, our heirs and successors, granting to the aforesaid mayor and aldermen of the town and parish aforesaid for the time being, and their successors, that they and their successors hereafter for ever may have, receive, hold and enjoy, and may and shall be able to have, hold, receive and enjoy, to their own proper use and behoof, in and from the aforesaid market and fairs or feasts, reasonable *piccage, sums of money for showing of goods and merchandises* there to be sold or exposed to sale, called *show money, stalling, tallage, tolls, tributes, customs, commodities, profits, rights and jurisdictions* of whatsoever nature, kind, or sort, [which] at any markets, fairs, or feasts *within any city, borough or town in the county*

Fines.

Power to extend the market.

of Kent, in anywise howsoever, are or were lawfully received, had or taken, although the same profits be not particularly or by express names in these presents named or declared. Know ye, moreover, that of our more abundant special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, we have given and granted, and by these presents do give and grant, to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors for ever, *view of frankpledge* of all and singular the *inhabitants and resiants* within the town and parish aforesaid, and all things which to view of frankpledge pertain or belong, or may pertain or belong, to be held *before the mayor of the town* and parish aforesaid for the time being, in a convenient place WITHIN the same town, by the mayor of the same town and parish for the time being assigned, TWICE in every year, (to wit,) once within a *month after the feast of Saint Michael* the Archangel*. And also, we give and by these presents grant to the same mayor and aldermen, and their successors, *assize and assay of bread, wine and beer, and other victuals*, WITHIN the town and parish aforesaid, and the amendment and correction of those who cause to be done or offend against the assize. Also, we will, and by these presents, for us, our heirs and successors, grant to the *mayor and* ALDERMEN of the town and parish aforesaid, and their successors for ever, that *they* and *the common council*, and also the FREEMEN *of the town and parish* aforesaid, *having lands and tenements* as hereunder mentioned, may have and shall have power and authority, so often as the Parliament of us, our heirs or successors, shall be summoned, to meet in some convenient place by them assigned at their pleasure, within the said town and parish

View of frankpledge.

Twice a year.

Assize, &c. of bread.

Members of Parliament.

The time for holding the second court is omitted.

of Maidstone, and there to elect *two fit persons for burgesses* of the town and parish aforesaid, and for the said mayor, aldermen and common council of the town and parish aforesaid, and the FREEMEN of the town and parish aforesaid, *having lands or tenements of freehold in their own proper right for term of their lives at the least*, to be sent to the Parliament of us, our heirs or successors, and there, as well for the utility of our kingdom of England as for the advantage and *utility of the town and parish* aforesaid, to do as shall be expedient and good; and the names of which persons so elected, or to be elected, for burgesses of the Parliament of us, our heirs and successors, as is aforesaid, we will that the aforesaid mayor and alderman, and their successors, shall certify in due manner to the sheriff of us and our successors of our county of Kent aforesaid for the time being; and the names of which persons so elected, or to be elected, and to the aforesaid sheriff certified, we will that the said sheriff of us, our heirs or successors, of the county aforesaid, for the time being, shall return into the said Parliament of us, our heirs and successors; and that the same persons whose names shall be so returned shall be the burgesses of the same town and parish, and members of the said Parliament of us, our heirs or successors. And moreover, we will, and for us, our heirs and successors, [by these presents grant] to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, that every mayor of the town and parish aforesaid for the time being, may have full power and authority to exercise and execute, in the aforesaid town and parish, all and singular those things which to the office of *clerk of the market* in anywise howsoever pertain or belong, and that no other clerk of the market in anywise intromit himself or themselves within the limits and precincts of the aforesaid town or parish. Provided

Mayor clerk of the market.

always, and we do by these presents reserve full power and authority to us, our heirs and successors, from time to time, and at all times hereafter, *to amove and declare* to be amoved, the *mayor, recorder, common clerk,* and either or *any of the justices* of the peace of the town and parish aforesaid for the time being *at the will and pleasure of us, our heirs and successors,* by letters under the signet of us, our heirs and successors, from their several offices aforesaid; and so often as we, our heirs or successors, by any such letters under the signet of us, our heirs or successors, shall declare such mayor, recorder, common clerk, and either or any of the justices of the peace of the town and parish aforesaid for the time being, to be amoved from their respective offices aforesaid, that then and from thenceforth the *mayor, recorder, common clerk,* and either or any of the justices of the peace of the town and parish aforesaid for the time being, so declared, or to be declared, to be amoved from their several and respective offices, *ipso facto,* and without any further process, be and shall be really, and to all intents and purposes whatsoever, amoved; and this so often as the case shall thus happen, any thing in these presents to the contrary thereof contained in anywise howsoever notwithstanding. And then and in such case, from time to time, so often as the case shall thus happen, within a convenient time after such amotion or amotions, *another fit person,* or other fit persons, in the place and office, or in the respective places or offices of such person or persons so amoved, shall and may be elected and constituted, in form above in these presents, named. And further, we will and by these presents for us, our heirs and successors, grant to the aforesaid mayor and aldermen of the town and parish aforesaid and their successors, that they and their successors hereafter for ever may have and shall have, within the town and parish aforesaid, one honest and discreet

Power to amove officers at the will of the Crown.

Common clerk.

man, who shall be and shall be called the common clerk of the town and parish aforesaid. And for the better execution of our will and grant in this behalf, we have assigned, constituted and made, and by these presents, for us, our heirs and successors, do assign, name, constitute and make, the aforesaid *Robert Saunders* to be the present common clerk of the town and parish aforesaid, to continue in the same office so long as he shall well behave himself; and we will that the aforesaid Robert Saunders, before he be admitted to execute the office aforesaid, shall take a corporal oath upon the holy Evangelists of God, *before the recorder* of the town and parish aforesaid for the time being, or so many of the aldermen of the town and parish aforesaid who will then to be present, rightly well and faithfully in and by all things to do and execute all and singular those things which to the office of common clerk of the town and parish aforesaid pertain; and to which recorder of the town and parish aforesaid for the time being we grant, by these presents, for us, our heirs and successors, authority and power to administer such oath. And further, we will, and by these presents, for us, our heirs and successors, grant to the aforesaid mayor and aldermen of the town and parish aforesaid for the time being, from time to time, and at all times after the death or amotion of the aforesaid Robert Saunders from his office aforesaid, it may and shall be lawful to the mayor and aldermen of the town and parish aforesaid for the time being, or the greater part of them, (of whom the mayor for the time being we will be one,) to elect and appoint one other honest, sufficient and discreet man to be the common clerk of the town and parish aforesaid, to be continued in the same office so long as he shall well behave himself, having first taken a corporal *oath* in form aforesaid; and so as often as the case shall thus happen. And further, we will and grant to the aforesaid Robert Saunders,

Oath.

Election of common clerk on vacancy.

[power and authority] to make and appoint a fit and honest man to be *deputy common clerk*, to be continued in the same office of deputy common clerk *during the pleasure of the aforesaid* Robert Saunders, having first taken a corporal oath in form aforesaid. And that the aforesaid deputy may do and execute all and singular those things which to the office of common clerk pertain and belong; and this so often as the case shall thus happen. And further, of our certain knowledge and mere motion, we have granted, and by these presents, for us, our heirs and successors, do give and grant licence to the mayor and aldermen of the town and parish aforesaid, and their successors, that they and their successors may and shall be able to *acquire, take and receive* lordships, lands, tenements, manors, rectories, tithes, rents, reversions, services and hereditaments whatsoever, and other possessions whatsoever, to the *yearly* value of *three hundred pounds* beyond all charges and reprises of any person or persons whomsoever willing to give, sell or alienate the same to them, to hold, to them and their successors for ever, to the proper use and profit of the same mayor and aldermen of the said town and parish: and to the same person and persons, that they may and shall be able to give, grant, bequeath, sell or assign lordships, manors, lands, tenements, rents, reversions, services and other premises to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, to the yearly value aforesaid, in form aforesaid; *the statute* of not putting lands and tenements to mortmain, or any other statute, act, or ordinance to the contrary thereof made, passed or ordained, or any other thing, cause or matter whatsoever in anywise notwithstanding. Also, we grant to the mayor and aldermen of the town and parish aforesaid, and their successors, that the aforesaid mayor, aldermen and common council of the King's town and parish

Deputy.

Licence to take lands, notwithstanding mortmain.

300l.

Freemen.

aforesaid, and their successors, or the greater part of them, may and shall be able to nominate, elect and admit any person or persons being an inhabitant or not an inhabitant of the same King's town and parish of Maidstone aforesaid, a freeman or freemen of the same town and parish aforesaid, and that he or they so as aforesaid, and as formerly heretofore in the town aforesaid hath been accustomed, or in any other manner named, elected or admitted, or to be named, elected or admitted, be and shall be a freeman and freemen of the town and parish aforesaid, and so shall be called and had during their natural lives, if he or they be not for any reasonable cause amoved by the aforesaid mayor, aldermen and common council, or the greater part of them, for the time being; and which recorder, aldermen, common clerk, common council, and freemen, so as aforesaid, from time to time to be nominated, elected or admitted, and every of them respectively, shall take and make their several *oaths* upon the holy Gospels of God, before the mayor and aldermen for the time being, or the greater part of them, (of whom the *mayor* for the time being we will to be one,) well and faithfully to perform and execute their several *offices or places* respectively. Also, we will, and by these presents for us, our heirs and successors, grant to the mayor and aldermen of the town and parish aforesaid, and their successors, full power and authority to hold before the aforesaid mayor of the town and parish aforesaid for the time being, within a convenient place WITHIN the town aforesaid, *by the mayor* of the town and parish aforesaid for the time being to be appointed, a court, *from fourteen days to fourteen days,* on Tuesday, and in the same court to hold *pleas,* as well of assize of novel disseisin, and all other pleas, actions, plaints and suits whatsoever, in anywise howsoever concerning messuages, lands and tenements, being WITHIN the town or parish of Maidstone aforesaid,

Court from fourteen days to fourteen days.

as any actions, suits, plaints and demands whatsoever, as well real and personal as mixed, happening, arising, or accruing WITHIN the town and parish aforesaid, or either of them, whether they exceed the sum of forty shillings or not. And that the town and parish of Maidstone aforesaid, and the liberties of the same, may extend themselves by the river Medway, commonly called the Water of Medway, from a certain bridge called Eastfarleigh Bridge, unto a certain place called Hawkwood. And whereas the aforesaid water of Medway, between the aforesaid bridge called Eastfarleigh Bridge and the place aforesaid called Hawkwood, doth run by and through the town and parish of Maidstone aforesaid, and by and through the several towns of Eastfarleigh, Barming, Loose, Boxley, Allington, and by certain streets called Millhale and Newhithe, in the parish of East Malling, in our county of Kent aforesaid, and the same town and parish of Maidstone aforesaid extends itself promiscuously in, by and through the town of Loose aforesaid, and Linton in the county aforesaid, and beyond and also by the said towns of Eastfarleigh, Barming and Boxley, and by the town of Otham, in our county of Kent aforesaid, as we have certain knowledge: now we, intending to fix with certainty and to limit into what parishes, towns, hamlets and streets, and in what manner and how far the liberties and jurisdictions of the mayor and aldermen of the town and parish of Maidstone aforesaid, as to the hearing and determining of pleas in their court aforesaid, may extend themselves and reach, will, and by these presents, for us, our heirs and successors, of our like special grace and of our certain knowledge and mere motion, grant, ordain and declare, that the liberties of the town and parish of Maidstone aforesaid, and also the jurisdiction of the mayor and aldermen of the same town and parish, and

Bounds of the town.

For cognizance of pleas only.

their successors, only as to the cognizance and determination before the aforesaid mayor for the time being, and his successors, of all and all manner of actions personal and mixed, and making replevins, and to no other intents, constructions and purposes, hereafter extend and reach, and from henceforth be had, and reputed, and adjudged so to extend and reach, in, by and through the aforesaid town and the parishes of Eastfarleigh, Barming, Loose, Boxley, Allington, Millhale, Newhithe, Linton and Otham, whether the actions aforesaid, or either of them, exceed the sum of forty shillings or not: so, nevertheless, that such cognizance and determination of actions personal, mixed, and replevins aforesaid, arising within the town and places aforesaid, by these presents to the same mayor and aldermen granted and confirmed, be not to the damage or prejudice of the jurisdictions, customs, liberties or privileges of any others our subjects there, having, or lawfully claiming any thing in this behalf. And that for the better execution of the same actions personal, mixed, and replevins, it may and shall be lawful to the aforesaid mayor for the time being, in and through the aforesaid parishes, towns, streets and hamlets of Eastfarleigh, Barming, Loose, Boxley, Allington, Millhale, Newhithe, Linton and Otham, to make and execute

Attachments.

attachments, and all other legal processes and executions, by their sergeant or sergeants at mace, or by any other person or persons by the same mayor for the time being to be named or appointed, as the law in that behalf may

Exemption from juries.

require. Also, we will and grant, by these presents, for us, our heirs and successors, to the same mayor, aldermen and common council, and their successors, that they, and every inhabitant of the same town and parish, henceforth hereafter for ever, be exempt and exonerated of all and all manner of juries and inquisitions to be returned,

had or taken, before any the justices whomsoever of *the same*, except in the said town of Maidstone. Also, for the better exemption of the INHABITANTS of the town and parish aforesaid from the juries and inquisitions aforesaid, of our like special grace, and of our certain knowledge and mere motion, we do, for us, our heirs and successors, by these presents, will, grant and declare, that the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors,* (may be parties,) and every *inhabitant*, from time to time, of the same town and parish, be not put or impannelled in any juries or inquisitions to be taken before the *justices of* us, our heirs or successors, to hear and determine felonies, trespasses and other evil deeds in the county aforesaid, or before the justices of us, our heirs and successors, *of Nisi Prius or gaol delivery* in the county of Kent aforesaid, or before the *escheator* and other the *commissioners or ministers of* us, our heirs or successors, without the town and parish of Maidstone aforesaid. And that the sheriff of our county of Kent aforesaid for the time being do not put or impannel, nor shall cause to be put or impanelled, the aforesaid mayor, aldermen and commonalty, and their successors, or any the *inhabitants* of the same town of Maidstone, in such juries and inquisitions to be taken WITHOUT the aforesaid town and parish as is aforesaid. And moreover, for the better preservation and keeping of the aforesaid town and parish, and the inhabitants of the same, in peace and good rule, of our special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, we have willed, granted and ordained, and by these presents do

Justices.

* There seems to be an omission in the charter here of some words, which probably were to exempt the inhabitants from serving upon juries in Crown causes.

will, grant and ordain, that the mayor and recorder of the town and parish aforesaid for the time being, and the aforesaid Samuel Wood, Garret Callant and Robert Sanders, the now mayor, [or the mayor of the parish and town aforesaid, for one year after his mayoralty, and after the death or amotion of the aforesaid Robert Sanders, Samuel Wood and Garret Callant, or either of them, one or more of the aldermen, (who shall have been mayor of the town and parish aforesaid,) by the mayor and aldermen of the town and parish aforesaid, or the greater part of them, to be elected, to supply and fill up the number *of six justices*,] be, and every of them shall be, a justice of the peace of us, our heirs and successors, within the town and parish aforesaid, so long as they shall well behave themselves, and no longer; and to do, perform and execute all and singular those things which to the office of a justice of the peace of us, our heirs or successors, pertain to be done, as other justices of the peace of the county of Kent have been accustomed to do and execute. And that *no justice of the* peace of our county of Kent aforesaid in anywise *intromit* himself within the said town and parish aforesaid, to do any thing which to the office of justice of the peace there doth belong or appertain: And which justices of the peace now named or constituted, and hereafter to be elected as aforesaid, shall, and each of them shall, make and take their corporal *oath* upon the holy Gospels, before the mayor and the rest of the aldermen then for the time being, faithfully to do and execute the office or place of justice of the peace there. And we will, and by these presents grant, that the aforesaid mayor, recorder, and the rest of the justices of the peace of the town and parish aforesaid for the time being, as aforesaid, and their successors, or any three of them, (of whom the mayor and recorder of the town and parish

Oaths.

Jurisdiction of justices.

aforesaid for the time being we will to be two,) may have and shall have, henceforth for ever, full power and authority to inquire, hear and determine of all and singular trespasses and evil deeds, of what sort, nature or kind soever, WITHIN the town and parish aforesaid arising, as the justices in the county of Kent, two or more of them, as well in their session as without, by virtue of our commission or grant to them thereof made, may or are able to do, act or perform; so, nevertheless, that they in nowise proceed to the determining of any treason or felony, or of any other offence touching the loss of life or members, without the special command of us, our heirs or successors, in that behalf. And that the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, may have, take and receive, to their own proper use, all and singular fines and forfeitures, and the issues of jurors for their not appearing, and also fines and forfeitures for trespasses, and other evil deeds and contempts, before the same mayor, recorder and two justices of the peace or three of them as aforesaid, WITHIN the town and parish aforesaid, from time to time happening, renewing or arising. And moreover, of our like special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, we have willed, given and granted, and by these presents do will, give and grant, to the aforesaid mayor and aldermen of the town and parish aforesaid, and their successors, that the now mayor and every mayor of the town and parish aforesaid hereafter happening, during the time of his mayoralty, be and shall be the *coroner* of us, our heirs and successors, in and through the town and parish aforesaid, and shall do and act, and may and shall be able to do and act, in as ample manner and form as any coroner. And that he, by himself,

Exemption of treasons and felonies.

Fines.

Mayor coroner.

Deputy.

or by his sufficient *deputy*, under the seal of the said mayor in that behalf to be named or deputed, may do and perform, and may and shall be able to do and perform, all and singular that which to the office of coroner belongs or appertains, within the town and parish aforesaid, in as ample manner and form as any coroner of any county of our kingdom of England, or of any liberty within the same county may, ought or can lawfully inquire, act, do, execute or fulfil; (the aforesaid now mayor having first taken a corporal oath in that behalf, before the said Edwin Wyatt, well and faithfully to execute the same office.) And to which Edwin Wyatt we give and grant, by these presents, full power and authority to take and administer such oath; and that no other coroner of our county of Kent aforesaid hereafter intromit himself within the town and parish of Maidstone aforesaid, to do any thing which to the office of coroner belongs or appertains. And further, of our special grace, and of our certain knowledge and mere motion, for us, our heirs and successors, we have given and granted, and by these presents do give and grant, to the aforesaid mayor and aldermen of the town and parish of Maidstone aforesaid, and their successors, to their own proper use and advantage, all and singular goods and chattels waived, estrays, fines, forfeitures, and other profits and emoluments to the aforesaid mayor and aldermen and their successors heretofore given and granted, and also goods and chattels of felons and fugitives, *deodands*, and felons of themselves, persons outlawed, or put in exigent WITHIN the town and parish aforesaid, by land or water, hereafter falling, happening, renewing or arising. And that the mayor of the town and parish aforesaid for the time being, and his successors, may have and shall have, from time to time, the return of all and singular

Goods and chattels of felons, &c.

Mayor return of writs.

the writs, mandates and precepts of us, our heirs and successors, within the town and parish aforesaid hereafter to be made and executed, so that our sheriff, coroner or escheator, in the county of Kent, or other the ministers of us, our heirs or successors, or either of them respectively, in nowise intromit themselves or himself into the same town and parish aforesaid, to act or do any thing in the premises. Also we will, and by these presents, of our special grace, and of our certain knowledge and mere motion, grant to the aforesaid mayor and aldermen and their successors, that they and their successors may have, receive and enjoy, and may and shall be able to have, receive and enjoy, to their own proper use and behoof, the wharfage, anchorage and groundage of all and singular ships and other vessels of what sort or burthen soever, coming to the same town and parish of Maidstone, and reasonable wages and fees for the loading and unloading of merchandizes, goods and chattels, in the same ships or vessels, in or out of the same ships or vessels there at the same [town and parish] to be laden or unladen. And also, that the aforesaid mayor, aldermen, and their successors, may likewise have, by the water aforesaid, from the aforesaid bridge called Eastfarleigh Bridge, unto Hawkwood, the liberty and privilege of keeping and preserving swans and cygnets, and *a swan-mark* for the same, and to change and alter the same swan-mark at their pleasure, and also to *sign and mark* all and singular the *swans and cygnets* aforesaid, swimming, breeding or frequenting out of the limits and metes by the water aforesaid, or within the metes and limits aforesaid, and the banks and soil of the same; and those not legally signed or marked with the mark of the sign aforesaid, to sign and mark; and full power and authority the swans and cygnets aforesaid out of the limits and metes aforesaid

Wharfage, anchorage.

Swans.

swimming or wandering, by water and land *to pursue, retake,* lead back and re-possess, without the impediment of us, our heirs or successors, or of any other the officers or ministers of us or others whomsoever. We also, intending the good estate of the town and parish aforesaid, and *the inhabitants* there in the premises, and to place in certainty and declare the same sums of money so taken and had, of our special grace, certain knowledge and mere motion, for us, our heirs and successors, by these presents, grant to the aforesaid mayor, aldermen, and their successors, in aid, reparation and amendment of the bridges, ways and causeways and common edifices of the aforesaid water-course of Medway, and of the soil and banks of the same, that they, by themselves, their ministers or servants, may hereafter, from time to time for ever, have and receive of the merchandizes and things to the town of Maidstone aforesaid brought or to be brought, and in the markets, fairs or feasts, or otherwise, there to be sold, or from the town aforesaid to the city of London or to any other places by land or the water aforesaid conveyed, brought, carried or taken, or to be conveyed, brought, carried or taken, these several sums of money and *customs* underwritten; that is to say, *for* every ton of wine, oil or vinegar, one penny; for every cart laden with corn or grain of what kind soever, timber, firewood, iron, coals of both kinds, wrought stones, or other the like saleable or marketable things, one penny; and for every greater or less quantity according to that rate: and also for every poyse or weight of cheese, butter, salt and other merchandize, one penny; and according to the same rate for every greater or less weight: and for every broad cloth, one penny; for every smaller cloth, called a kersey, one halfpenny; and so according to that rate for every greater or less quantity: and for every quarter of

Customs to be taken.

corn or grain of what kind soever, one penny; and so according to that rate: and for one hundred of sea fish brought or carried to the town of Maidstone aforesaid for sale, one penny; and so according to that rate for every greater or less quantity: for every ox, steer, cow, horse, mare, foal and heifer, for sale, one penny; for six sheep for sale, one penny; and so according to that rate for any greater or less number; for every calf or pig for sale, one halfpenny: for every truss of merchandize of the value of twenty shillings or more, one penny: and for every merchandize and saleable thing not above expressed or specified, exceeding the value of five shillings, one halfpenny. Also, we grant, for us, our heirs and successors, to the aforesaid *mayor and aldermen and common council* of the town and parish of Maidstone aforesaid, and their successors, that *they*, or *the greater part of them*, for the better supporting of the charges of the town and parish aforesaid, or for other reasonable causes or respects, or for the public good and advantage of the same town and parish, and the *inhabitants* there, upon themselves AND EVERY INHABITANT there, may and shall well be able, from time to time, to make, impose and assess *reasonable taxes and assessments* in reasonable sums of money, and the same by distress or other lawful means to have, receive and levy, as heretofore they have been used or accustomed. And moreover, we will, and by these presents, for us, our heirs and successors, grant and confirm to the aforesaid mayor and aldermen and common council of the town and parish aforesaid, and their successors, that they and their successors may have, hold, enjoy and use, and may and shall be able hereafter for ever to have, hold, enjoy and use, all and singular other and such sort of liberties and powers and authorities, lands, tenements, hereditaments, franchises, immunities, acquittances and free cus-

Assess inhabitants.

toms, as and which they or their predecessors, by virtue of any charters or letters patent, by us, or by either of our progenitors, late Kings or Queens of England, or otherwise by any lawful manner, right or title whatsoever, have had, held or enjoyed: Rendering therefore to us, our heirs and successors, so many and the like rents and services, for the premises, as and which *at the time of the surrender aforesaid* were due or payable to us for the same. In testimony whereof, &c. witness the King, at Westminster, the twenty-sixth day of October.

By the King himself.

1682—Dec. 2. We find an entry in the words following :—

" Maidstone (Ss.) At an adjourned court of burghmote there " held, the 2d December, A. D. 1682, Robert Sanders, " esq. mayor. At this court, John Smyth, butcher, " having put himself upon his fine for his *freedom*, his " fine is assessed at ten pounds, which he accepted " of and paid in court—took his *oath of freedom and* " *allegiance*, paid his fees, and was made free."

This entry expressly states that Smyth *took the oath of freedom and allegiance*; the latter he was obliged to take by the general law; the former was probably imposed under the supposed authority of the charter of 17 James I., or of the last charter of 34 Car. II.: but as it would be justified by the former charter (if indeed the King has by the constitution any power to authorize the administering any oath merely by his charter, except for the purposes of legal investigation, or for the exercise of the executive power vested in him,) it cannot be taken as a decisive proof of the corporation having acted under the latter: the entry does not mention whether Smyth was an inhabitant or not.

We then come to an entry for the inspection of the burghmote books, and for considering the bye-laws, whether they are fit to be continued, altered or abrogated.

This is clearly an act done under the new charter of Charles II., as the *aldermen* act in it, and they are mentioned in that charter only.

The entry is as follows :—

" Aldermen. { Robert Sanders, esq. Mr. William Wildish.
Garnet Callant, esq. Mr. Robert Salmon.

" Common Council. { Mr. John Vincey. Mr. Alexander Osborne.
Mr. Richard Wattell. Mr. George Hodges.
Mr. Richard Heeley. Mr. John Newington.

" It is ordered at this court, that the four aldermen above
" said, and the said six commoners, are hereby
" ordered and appointed, that the said aldermen or
" any two of them, and the said commoners or any
" three of them, do inspect the burghmote books,
" and consider the bye-laws therein fit to be con-
" tinued and altered or abrogated, and do make
" report of the same at the next burghmote ap-
" pointed to be holden for this corporation."

" Maidstone (Ss.) A court of burghmote there holden, 1682—Dec. 20.
" this 20th day of December, 1682. 34 Car. II.

" Thomas Bliss, mayor.

[Names of Aldermen - - - Appearing.
The like - - - - - - - - Defaulting.
Common Council - - - - Appearing.
The like - - - - - - - Defaulting.]

" It is ordered at this court, that all and singular acts,
" bye-laws and orders of burghmote heretofor made
" for the good government, benefit and advantage of
" this corporation, and were in force at the renew-
" ing of our present charter, be confirmed, and the
" said acts, orders and bye-laws are hereby confirmed
" accordingly."

Courts of burghmote appear to have been frequently held about this period. James Gilbert, a miller, and Thomas Baxter, bricklayer, are at two several courts admitted as freemen. The form used is similar to that in the admission of John Smyth: and entries of the admission of Nicholas Wicking, grocer, *second son* of Richard Wicking, grocer, *a freeman;* and John Dodson, *he having served his apprenticeship* with James Dodson, thread-twister, a freeman, are nearly in the same form.

1683—35 Chas. II. We now meet with an entry of some little consequence; it is of the admission of eight persons, some of them of rank, as freemen of the corporation. It is in the following form:—

1683—Aug. 8. "At a court of burghmote, &c.—At this court Jacob "Lord Astley, baron of Reading, Sir William "Twisden, bart., Sir Robert Filmer, bart., Sir "F. Clarke, knight, Sir W. Drake, knight, Edward "Digges, esq., Archibald Cluckard, esq. and John "Clarke, esq. *came and offered themselves to be made* "*freemen of this corporation*, which was very kindly "accepted by this court. They severally took the "oaths of freedom and allegiance, and were made "free."

This appears to be one of those illegal acts so common in corporations. If these eight individuals were non-inhabitants, and it appears they were so, it seems clear that they were unduly admitted into the corporation; for whatever doubt may be entertained as to the right of *all* the inhabitants to be in the corporation, there can be no doubt but that all the corporation ought to be inhabitants; to hold a contrary opinion would be a strange perversion of the uniform words of all the charters.

In the same year there is an order for proceeding by action against two persons for exercising their calling within the town for one month, contrary (as stated) to

the orders and constitutions of the corporation, having been severally summoned to appear, to compound for their freedoms, and made default therein, and it seems to have been made in conformity with the power, claimed and exercised by every corporation, of compelling certain classes therein specified to become free; and if they can compel any person to be free, or otherwise fine them, surely the persons subject to such fines, must have an opportunity of protecting themselves from them, by claiming to be made free.

But this order, and the subsequent one of the same year, which is in substance like it, appear both to have reference to trade, and not to burgesship. The orders are as follow:—

"Maidstone (Ss.) At an adjournment of the court of "burghmote there holden, the 14th day of August, "1683, 35 Car. II.

"Thomas Bliss, esquire, mayor.

[Aldermen - - - - - - Appearing.
The like - - - - - - - Not appearing.
Common Council - - - Appearing.
The like - - - - - - - Not appearing.]

"It is ordered, at this court, that there be an action "brought by the chamberlains of this corporation, or "by one of them, against Stephen Mankellow and "John Shade, *for using and exercising of their several* "*trades* or callings within this town and parish, for "the space of one month last past, contrary to the "orders and constitutions of this corporation, they "and either of them having been severally sum- "moned to appear, to *compound for their freedoms*, and "made default therein."

"Maidstone (Ss.) A court, &c. holden 16th November, "1683, 35 Car. II.

"Whereas, Jeremiah Jones, Thomas Collett, *gentle-*

" *men*, Stephen Mankellow and Robert Knight, *inha-*
" *bitants* of this town and parish, and *not freemen* of
" this corporation, have used and exercised severally
" *several trades within this town and parish* for the space
" of six months last past, contrary to the orders and
" constitutions of this corporation; they and every of
" them having been severally summoned to appear, to
" compound for their freedoms, and having made de-
" fault therein. It is therefore ordered by this court,
" that they, and every of them, *shall severally pay to the*
" *use* of this corporation, for the *time past*, 10*l. and*
" *so to be made free;* and if they or any of them shall
" refuse so to do, that then he and they so refusing
" shall also pay to the use aforesaid 40*s.* for the time
" past, and 5*s.* the week weekly for the time to come,
" so long as they shall use trading within this town or
" parish."

The following are copies of rather curious documents: on the one hand, they show clearly, that even in those arbitrary times, some show of fairness was made; on the other, they show the extent of power then usurped; first, the King thought fit, and required the election of Joseph Wright to be mayor, and directed his admission without any oath excepting the oath for the due execution of the office; and, in consequence, two gentlemen being put in nomination by the mayor and aldermen, for the commons to choose one, they, the commons, unanimously elected the person nominated by the King. We beg our readers carefully to peruse these documents.

" Maidstone—The elecion of maior, made the 5th day of
" December, 1687, &c.

" Elecion of maior—Mr. Alexander Osborne and Mr. Jo-
" seph Wright being put in nominacon by the maior
" and aldermen, for the comons to choose one of them
" to be maior for the ensuinge yeare, the comons vna-

" nimously elected the said Joseph Wright, accord-
" ing to his Ma~tie's mandamus or letter mandatory,
" directed to his trusty and welbeloved the maior,
" aldermen and corporacon of his Ma~tie's towne of
" Maidstone aforesaid, as followeth, that is to say:

' JAMES R.

' Trusty and welbeloved, wee great you well, whereas
' wee have reced good testimony of the loyaltie and
' abilitie of our trustie and welbeloved Joseph
' Wright, gent. wee have thought fitt hereby to re-
' quire you to elect and admitt him to be maior of
' that our towne of Maidstone for the yeare next
' ensueinge, with all the rights, priviledges and pro-
' fitt thereunto belonginge, without administringe to
' him any oath but the vsual oath for the due exe-
' cucon of that office, wee being gratiously pleased
' to dispence, as wee do hereby dispence, with his
' takinge any other oath whatsoever; and for soe
' doeinge this shall be your sufficient warrant; and
' soe we bid you ffarewell. Given att our court att
' Whitehall, the second daye of December, 1687,
' in the third yeare of our reigne.

' By his Ma~tie's comand,

' SUNDERLAND.'

" Wherevpon, the said Mr. Joseph Wright being then
" p.sent, tooke the oath of maioralty, of justice of the
" peace, and clerk of the markett."

There are subsequent orders to remove aldermen, common councilmen and other officers, and to elect others in their stead, which was accordingly done.

A letter, or precept, from William Henry, Prince of Orange, dated at St. James's, 22d December, 1688, was sent to the corporation to elect two burgesses, and make return before 22d January then next. To which the

mayor, jurats and common council made a return, certifying that "the mayor, jurats and *coialty* had elected, &c. Sir Thomas Taylor, bart. and Caleb Bancks, esquire, &c. Dated the 9th January, *in the 4th year of James the Second,* and in the year of our Lord 1688."

1701—13 Will. III.

There appears at this time to have been a contested election for this borough, followed by a petition, which was heard at some length, before a committee.

The right of election was *agreed* to be in the *freemen* not receiving *alms* or charity.

The latter part of this statement, as to the alms, is not peculiar to Maidstone, or any other borough; but is the general disqualification of the common law of all those who, receiving alms, are not sufficiently independent to be allowed to exercise the right of voting for members of Parliament.

The *right in effect, therefore, is only stated to be in the* FREEMEN.

It should first be observed, that the *agreement* of the conflicting parties, as to the right of election, does not *bind* the right: for the parties themselves cannot alter the right: see Glanville, 108, in the Cirencester case; and the reasons upon which that principle is founded may be seen in Glanville, page 118, in the Middlesex case; although they are there applied to any species of understanding between the parties.

This agreement of the parties also will not operate as a last determination. The only proper effect of it is, as evidence of what was the right of election at the time the agreement was made; if the agreement, from the circumstances of it, was such as to warrant the inference that it was consistent with the right of election before exercised in the place. And that brings it to the question, whether a different right of election can be shown to have

previously existed in this place or not: if it can, the agreement of the conflicting parties goes for nothing; if it cannot, the agreement is strong evidence of the former right having been consistent with it.

For the reasons given before, in commenting upon the early returns, it appears that the right of election was in this place originally exercised, as appears by the returns, by the *inhabitants* incorporated under the name of *commonalty;* and the inhabitants continued to exercise that right without any interruption, and without all doubt, up to the time (at least) of the charter of 17th James I. which first introduced the clause for the unlimited admissions of persons non-inhabitants to be freemen.

It has been already stated what is the proper construction of that clause; but it seems probable that it was soon applied by the corporation to justify the admission at will of any of the inhabitants, and to exclude whom they thought fit of the inhabitants.

If the clause was intended by the King not to be construed in the manner before suggested, but to be applied in the manner the corporation seem to have taken it; then whatever effect the clause might have had upon the corporation, it could not affect the previous right of parliamentary election, exercised before by the inhabitants. See the Chippenham case, Glanv. 54, and 2 Inst. 48.

The term "freemen," used in the resolution, is capable certainly of being applied to the *free inhabitants*: and so applied, it would be consistent with the former usage, and would make the whole uniform.

Another petition followed, after a contested election in the next year. The petition charges, amongst other things, that the mayor and jurats, with two of the candidates, and several freemen, had by bribes, and unlawful practices, procured several electors to vote for the mem- 1702—1 Ann. 14 Journ. p. 5.

bers returned; so that it appears the select governing part of the corporation in this place, as in many others, had endeavoured to use the power they gradually usurped, for the purpose of controlling the parliamentary elections.

Right. The same right was agreed as in the preceding year.

As this petition succeeds so immediately after the former, it does not appear materially to strengthen the inferences to be drawn from the former proceedings; particularly as this election was declared void, and as a punishment upon the town for the irregularities which had occurred during the last election, it was ordered that no writ should issue, during the session, for this place.

No writ.

See Oldfield's History of Boroughs, Colepepper. There were afterwards two or three contested elections, and petitions founded upon them, but it is doubtful whether there is any accurate account now extant of any further proceedings had upon them.

1715—1 Geo. I. In the petition for a new charter, in 1742, 16th Geo. II. it is stated, that from the time of granting the charter of 17th James I. 1619, till this time, being nearly one hundred years, the jurats were elected by the *mayor, jurats and common council;* but it will be seen hereafter, in Weldish's case, that it is there stated the election of jurats, during that period, had been by the *mayor and jurats only.* The petition goes on to state, that in the year 1715, when party affairs ran high, and a majority of the then common council being in an opposite interest to those who then bore the principal sway in the corporation, and could influence a majority of the jurats, the charter of 2d of King James I. (by which the right of election is restrained to the mayor and jurats) was produced and read at a burghmote court, then held for that purpose; and it was insisted and resolved upon, by the governing part of the corporation, to be the method then

subsisting for the election of jurats; in consequence whereof, the common council was from that time excluded from intermeddling therein.

In some MS. notes of Mr. Justice Yates, relative to corporation law, a case of a *quo warranto* against one *Weldish*, for exercising the office of jurat, is mentioned. It is stated to be in 2d Geo. I. 1716; but there is some reason to think that there is an error in the date, and that it ought to be 12th Geo. II. 1739, as mention is made of a case of the kind in a note to the case of Rex *v.* Amory, 1 Term Reports, 364, and it is there stated to have occurred in 13th Geo. II. 1740; and as that is a motion for a trial at bar, it is probable that the information had been moved for the year before; we shall therefore postpone the mention of that case to the date to which it seems properly to belong.

1736—10 Geo. II.

The petition before referred to states, that the method of electing by the mayor and jurats only, in exclusion of the common council, was pursued from the year 1715 (1st Geo. I.) till 1736, (10th Geo. II.) when differences arising in the corporation, touching this right of election, informations in the nature of *quo warranto* were filed against seven of the jurats who had been chosen by the *mayor and jurats only*.

Rex v. Mussary. 1738—12 Geo. II.

Two of whom were Blount and Mussary; and in Hilary Term, 12th Geo. II. their cases were argued on demurrer.

They were jurats of Maidstone, and their election was disputed, as having been made by the *mayor and jurats only*, without the commonalty; at least as the case is reported in Andrews. But the report is short, and is mistated in some small particulars, and in a manner likely to mislead.

Rex v. Blount.

In Blount's case, the charter of Edward VI. is stated

as incorporating the town, when, in fact, (as observed before) the incorporation is of the *inhabitants;* and that charter, with reference to the matters in dispute, is stated very imperfectly.

The clause for the election of jurats, on death or amotion, enables the *mayor and jurats* to assemble at any place within the town and parish, and to elect one or more of *the other persons then inhabiting within the town* to be a jurat, and if a crime or other sufficient and notorious fault shall be found in any jurat, then the *mayor, jurats and commonalty* may amove him, and elect another in his stead, *in form aforesaid.*

The proper construction of which clause is certainly not obvious at first sight; for it provides first that the election of jurats on death and amotions, generally, shall be by the mayor and jurats: and afterwards directs, that the amotions on particular occasions (that is for crimes and notorious faults) shall be made by the mayor, jurats and commonalty, who are to elect another in his stead: thus creating an apparent inconsistency; unless it can be reconciled by supposing that the first part of the clause applies to ordinary vacancies, and the latter part to vacancies produced by the commission of crimes: but, even taken in that view, the construction is by no means satisfactory; and the proper construction, in all probability, is, that the elections of jurats is given on all vacancies to the mayor and jurats by virtue of the concluding words of the clause, which directs that the elections shall be in form aforesaid, which, it is conceived, means that they shall be by the mayor and jurats, as directed in the former part of the clause, although the grant is to the corporate body of the mayor, jurats and commonalty.

The clause in the charter of Elizabeth, for the election of jurats, is precisely the same as that of Edward VI., ex-

cepting that it describes the office as jurat of the *town and parish;* and authorizes the assembling at any place within the town, to elect from the persons then *inhabiting* within the town and parish; a whimsical variation in the adoption and rejection of the word "parish," which is only to be accounted for by the general inaccuracy of these charters.

The corresponding clause in the 2nd James I. directs, that when any jurats of the town and parish shall die, or for reasonable cause be amoved, the mayor and jurats may assemble at any place within the town, and elect one or more other *persons, being of the commonalty* of the town or parish, and then inhabiting within the town or parish, being freemen of the town and parish, and having freeholds. And in other respects is the same as the clause of Edward VI. and the 2nd of Elizabeth, excepting that it directs the amotion to be made by the mayor, jurats and commonalty, being freemen and freeholders.

The charter of the 17th James I. misrecites both the charter of Elizabeth and the 2nd of James I. as to the election of jurats, as has been observed before: and for the purpose of removing all doubts, directs that the mayor, jurats and commonalty may elect any person *inhabiting* within the town and parish, *although* such person be not a freeman of the town, and hath not a freehold; and any freeman elected, refusing to take the office, is to be fined by the mayor, jurats and commonalty.

After the particular inquiry into all these clauses, which this question as to the election of jurats has suggested, still it seems clear that the *inhabitants* were the corporators. The commonalty mentioned in all these clauses were (as observed before) the *inhabitants*; and the eligible were also to be *inhabitants;* which seems strongly to confirm the opinion that they were the corporators. Because it seems hardly reasonable to suppose

that the King would have made persons eligible for so important an office of the corporation as jurats, who were not members of the corporation.

The charter of 2d James I. certainly requires that the eligible should also be freemen and freeholders; but the 17th James I. expressly directs that neither of those qualifications should be necessary: and so far tends to show that they had no connexion with the corporate character. It is true that the fine is, by the 17th James I., to be imposed on the persons who refuse to take on themselves the office of jurats: but this probably is to be explained (as suggested before) by considering the persons who are eligible, and compellable to take this office upon them, to be the *free inhabitants* of the place.

And it must be remembered, that after all these clauses had been brought under the consideration of the court in this case, the election is determined not to be in the mayor and jurats alone, but in the mayor, jurats and *commonalty;* which, for the reasons given before, and supported by the clear construction of all the charters, means the "*inhabitants.*"

Rex v. Mussary.

Mussary's case was in substance, at least as far as relates to the present inquiry, the same as that of Blount.

It may however be observed, that the defendant, in his plea, grounds his eligibility on his being an *inhabitant and freeman;* which is, in substance, that he is a *free inhabitant;* and accords with the construction of the charter before insisted upon.

The judgment in each of these cases was against the defendant; and it appears from the petition in 1742, that five others, against whom similar informations were filed, and whose elections stood upon the same footing, disclaimed; so that there remained only three jurats, who had been chosen by the mayor, jurats and common council, before the alteration in 1715.

As the prosecutors in Mussary's case were obliged to obtain a rule upon the corporation to produce the charter of 17th James I., upon the trial of the issues in those causes, it seems probable that the select body of the corporation were aware how hostile that charter was to their exclusive power, and on that ground were anxious to keep it back.

That such was the object of the select body of the corporation seems very probable from the fact which is stated in the case of the King against Weldish, (the next transaction which is material in the history of this place,) that although the charter of 17th James I. expressly gave the election of jurats to the commonalty; the jurats nevertheless, from the granting of that charter, retained the election in themselves, and it will be observed also, that the bye-law made in the reign of James I. for the election of jurats by the common council, (created by the bye-law of the 5th of James I. before mentioned,) was in this case held by the court to be illegal and void.

It further appears by the petition in 1742, that a burghmote was held in this same year, at which the three remaining jurats, (one of them presiding as mayor,) three common councilmen, and fifty-four freeholders were present, when fifteen persons, elected from the freemen, freeholders and inhabitants, were, by unanimous consent of the whole court, elected and sworn common councilmen. Six of the common council were put in *nomination* for jurats by the mayor, jurats and common council; three of whom were elected and sworn, (as it is stated in the petition,) agreeably to the ancient custom. But no such custom, or indeed any trace whatever of such a nomination and election of jurats, appears before in any of the charters, or indeed in any of the documents relating to the corporation.

1738—10th Jan.

Soon after this new election, the persons who had been ousted as jurats, and their friends, attacked the titles of the three jurats who were elected previously to 1715 by the mayor, jurats and common council, and not by the commonalty at large, as required by the charter 17th James I.: and accordingly informations in nature of *quo warranto* were filed against each of them.

The following is an extract from the MS. notes of Mr. Justice Yates of the motion against Weldish, who, no doubt, was one of the three.

[It appears from the note in 1st Term Reports, 364, that there were similar *quo warrantos* at the same time against Reid and Curteis, who probably were the other two.]

" The borough of Maidstone have had several charters,
" whereby the election of *jurats* was delegated to the
" *mayor and jurats.* The whole corporation passed
" a bye-law that the election of jurats should be
" made by the mayor, jurats and a *select* party of the
" commonalty, called common council. Under this
" bye-law several elections had been made. And
" afterwards, (17th James I.,) that King granted
" them a new charter, enabling the mayor, jurats
" and *commonalty* to elect jurats; and from that time
" to the year 1715, the election had been carried on
" by the *mayor and jurats only:* and by them the
" defendant was elected."

Note.—It has been seen before, that, in the petition in 1742, 16th George II., it is stated that the election of jurats from 1619, (the 17th James I.) to 1715, was constantly by the mayor, jurats and common council.

" Upon a motion for leave to file an information in the
" nature of a *quo warranto* against the defendant, to
" try his right to be a jurat of the town,—

" Two things were insisted upon for him. First, That
" notwithstanding the last charter, enabling the
" whole corporation to choose jurats, yet, to prevent
" popular confusion, that right might be circum-
" scribed by a bye-law to a less number; and
" therefore a bye-law, that the mayor, jurats and
" common council should elect, was good; and al-
" though no such bye-law appeared to be made after
" the 17th James, or was extant in writing, yet so
" constant and uniform an usage, as appeared in the
" present case, till 1715, (nearly a hundred years,)
" was undeniable evidence of such a bye-law.
" Secondly, That the defendant being elected in 1715,
" and having so clear a title, not impeached in all
" that time till now, the Court ought not, at this
" distance of time, to permit an inquiry into the
" right: but (as in all other cases) *the length of pos-*
" *session* ought to incline the Court to do and pre-
" sume every thing that might possibly contribute to
" support the right of the possession.*
" *Sed per Curiam.*
" It is very plain that the bye-law, precedent to the char-
" ter of 17th James, as it tended to enlarge the num-
" ber of electors, was illegal and void: and though
" it must be admitted that a bye-law to restrain the
" number is good, yet such bye-law must either be
" in writing or supported by such an usage as is clear
" evidence of it.
" If we should refuse an information, we must do it upon
" a supposition that the party against whom it is
" prayed has a *plain and manifest title* to the fran-

* But see per Curiam in Rex v. Alexander John, mayor of Lostwithiel, 8 Mod. 132.—9 Geo. 1. 1723.

"chise he exercises: his right, in such a case, ought "to appear in the clearest manner. In the present "case it stands thus. From the 17th James, to the "time of his election, the manner of choosing has "been uniform, and if that was the whole of "the case, it would be the strongest evidence of "such a bye-law being made, under the charter, as "would be sufficient to justify his election. *But then* "*it must be considered that the elections preceding were* "*made on the same day, and under a bye-law that was* "*most certainly void. Whether the subsequent elections* "*might not proceed under the same bye-laws does not* "*appear.*

"*It is not a foreign supposition that they did; and, if they* "*did, there can be no question that they were all irre-* "*gular to justify such an election.* In opposition to "the last charter, there must be a bye-law; and "whether there ever was such an one or not does not "now appear, but only from the usage; *the force of* "*which is greatly impaired by the former usage;* which "seems in some measure to account for the latter.

"This suffices to show the difficulty about the defendant's "title, and that it is impossible for us to say it is so "clear that there can be no controversy about it, "and therefore it is a proper thing to be tried."

Accordingly, informations in the nature of *quo warranto* were filed in each of these cases, to which the defendants pleaded the several charters which had been granted to the borough; particularly the power of making bye-laws granted by the charter of the 2d James I. to the mayor, jurats and commonalty. And set out the supposed bye-law of 10th August 1619, 17th James I., before mentioned, which gave the election of jurats to the common council; and which the defendant insisted was a legal

bye-law, notwithstanding the charter of that King, in the same year, gave the election of jurats to *the mayor, jurats and commonalty at large*; and which bye-law they insisted had been acted upon from the 17th James I., till the 1st Geo. I. 1715.

It also appears, from the short note in 1st Term Reports, 364, of the motion in this case for a trial at bar, that the defendant pleaded a bye-law not extant in writing; and that the prosecutor, in his replication, set out another bye-law, and it was contended that the usage of electing, by the common council, had been under the latter bye-law, and not under the former.

These cases were thought of such importance, that there was a trial at bar in one of them, and a verdict being obtained against the defendant, and judgment of ouster entered accordingly, the two other disclaimed.

1739—13 Geo. II. M. T.

An information in the nature of *quo warranto* was moved for against one of the six new jurats elected, as mentioned before, on the 10th January 1738.

1741—15 Geo. II.

This *quo warranto* was tried in Easter Term, 1741, and it being insisted that the three jurats, who attended at the election, had been since removed by *quo warranto*, they were not good jurats at that time, and consequently there was no good jurat attending the election.

In the petition of 1742, the thus applying the ouster of the three jurats retrospectively against the persons elected by them, who were no parties thereto, was treated as a hardship, and apparently disputed as law; but that point is now clearly established law, and cannot be disputed, and indeed was in this case acted upon by the Court, and a verdict being found against the defendant, and judgment of ouster accordingly, the other five disclaimed; so that the corporation was left without a jurat.

In consequence of these proceedings the corporation became dissolved, or at least was unable to continue itself: upon which an application was made to the Crown for a new charter, about the year 1743.

1743—16 Geo. II. Two petitions were presented to the Crown, and it should be observed that each of them were by the freemen, freeholders, and OTHERS INHABITANTS of the town.

The petition, which was stated to be "by far the greatest number of the freemen, freeholders and *others inhabitants*," stated shortly the several former charters granted by the Crown, namely, those of Edward VI., Elizabeth, 2 James I., 17 James I., and 34 Car. II.

The charter of Edward VI. is erroneously described (as in the report of Blount's case in Andrews) as incorporating the town, instead of the *inhabitants*, by the name of the mayor, jurats and commonalty; a mistatement somewhat material, as appears by the inferences drawn from the particular words of that and the subsequent charters.

Neither, in the statement of this charter, is it mentioned, that the first mayor and jurats are described as *inhabitants*, and that their successors were to be the same.

A similar observation may be made as to the statement of the charter of Elizabeth, and of the 2d of James I.; with respect to the latter of which, it is said, that it gave a power of making bye-laws, as if for the first time; but in fact the charter of Elizabeth had previously given that power.

From these mistatements of the charter in this petition to the Crown, it is obvious, either that the corporation did not know their own rights, or that they had some object in misrepresenting them.

The petition then states the bye-laws, which have

been mentioned before, and describes them as having been made in pursuance of the charter of 2d James I.

It also states the several proceedings of the corporation before enumerated, and the successive removals of the jurats, till none were left.

It then sets out the usual mode of electing the mayor, by the jurats nominating two of the jurats, of whom the commonalty at large were to elect one to be mayor; but as there were no jurats, there was not, and could not be any mayor.

They then set out a counter-petition, which to their surprise had been presented to the King in the name of the freemen, freeholders and *other inhabitants:* and which stated the inconveniences arising from all the commonalty assembling at the court of burghmote.

Of this counter-petition they complain, as framed to break in upon the right of the commonalty to assemble at the burghmote court, which, *they say, had been exercised not only under the authority of the former charters and immemorial usage, but was in itself also a very reasonable and necessary liberty, and agreeable to the laws and constitution of a free country:* and they deny the existence of the inconveniences which were suggested.

Wherefore they pray the King to grant them a new charter, confirming the charter of 17 James I., and continuing the right of electing the mayor, jurats and other officers, as was established by the said charter of James I., and which had been observed for such a length of time, that so the ancient form and method of government might be revived and confirmed.

Both these petitions were, in the ordinary course, referred to the attorney and solicitor-general; who heard counsel on both sides, and reported, "*that the parties agreed as to the persons who were to constitute the corpora-*

tion, and as to the election of mayor, &c., but that they differed chiefly as to the election of jurats; one side insisting that the mayor and jurats only, or at most the common council, should have the right; and the other that the whole body should possess it, according to the charter of 17 James I., without any common council.

"That the former insisted that the three first charters had given this right of election to the mayor and jurats only: that the charter of 17 James I. was only intended to alter the qualification; but, by a misrecital of the former charters, the manner of the election was altered, and yet the commonalty had never exercised the right.

"That the latter insisted, that although the right had been *exercised* by the select body, yet it was still virtually the act of the body at large: *and that it was more agreeable to the ancient constitution of the place to restore the right to the commonalty*, and leave it to them to delegate it when they found any inconvenience in the general exercise of it."

And the attorney and solicitor general recommended that a new charter should be granted to the INHABITANTS agreeably with the charter of 17th *James I.* in all points not disputed between the parties.

And as to the election of jurats, and the existence of a common council, in order to make the corporation as *consistent* with the ancient usage as possible,

First.—That after naming the mayor and twelve jurats, forty of the remaining principal *inhabitants* should be the common council: and that upon any vacancy of a common councilman, the mayor, jurats and commonalty should elect another *inhabitant*.

Second.—That the jurats should be elected out of the common councilmen by the mayor, jurats and common council.

Third.—That the making of bye-laws, and the amotion of jurats and common councilmen, should be in the mayor, jurats and common council.

Both sides were dissatisfied with this report, and presented petitions against it.

Those for the select body requesting—

First.—That the common council should be twenty-four, not forty.

Second.—That the mayor, jurats and common council, should fill up vacancies of common councilmen.

Third.—That the mayor and jurats should fill up the vacancies of jurats.

Those for the commonalty requested—

That there should be no common council, (having, no doubt, experienced the encroachments and usurpations to which such bodies were usually prone) and that, to preserve *the ancient form and method of government* in the said corporation, the charter should be granted to the mayor, jurats and *commonalty;* and that the right of electing and amoving jurats should be in the mayor, jurats and commonalty; and that the commonalty should elect the mayor;—for the following reasons:

That the real question was, whether the new charter should be in conformity with the early charters, under which, as long as they existed, the corporation enjoyed perfect peace and security; or with that of 34th Car. II. which at the Revolution was declared illegal and void; and which question, they contended, admitted of no doubt.

That if the plan of the charter of Car. II. should be pursued, it would be to establish by legal authority, the usurpation of the mayor and jurats upon the commonalty; but to make the new charter agreeable to

the former ones will be to *preserve and continue the old rights and ancient forms and method of government, which have been immemorially established in this corporation.*

That the Crown would never take away from the commonalty at large this their valuable right, and place it in a select number of common council.

That the election of jurats has for three hundred years been in the commonalty at large, and that the common council was of their election, and acted under their authority, and by virtue of rights vested in the commonalty at large; which delegation of power to persons elected by themselves was very different from a select body of common council appointed by the charter, vested with rights independent of them, and thereby made *an aristocracy to dispose of their rights.*

They therefore pray, that the rights of the commonalty may be preserved, and the charters be granted as before requested.

1747—21 Geo. II. In pursuance of these proceedings, about five years afterwards, a new charter was granted by George II.

Recital. Which recites, as the fact truly was, that the INHABITANTS had enjoyed divers liberties, &c. by the *name* of the mayor, jurats and *commonalty.*

It then declares Maidstone to be a free town; and, proceeding upon the petition of the freemen, freeholders, *and other inhabitants,* in the same manner in effect as the charter of Edward VI. and all the succeeding charters did, (with the exception of the 34th Car. II. *which only mentions the commonalty,*) incorporates again the

Incorporation. *inhabitants, by the name of the mayor, jurats and commonalty.*

The usual corporate powers and a common seal

are then granted, and the bounds of the town confirmed.

Thirteen of the *inhabitants* are to be jurats. Thirteen jurats.

One of them to be mayor. Mayor.

Forty of the remaining principal *inhabitants* are to be the common council. Common council.

The mayor, jurats and common council, of whom the mayor is to be one, are to have the power of making bye-laws; which is expressly extended to the manner and order in which the mayor, jurats and commonalty, and the officers, ministers, burgesses, artificers, inhabitants and residents, shall behave themselves, and use their offices; and the usual power of enforcing the bye-laws by fines and distress are given, and the proviso added that the bye-laws be not contrary to the laws of the realm. Bye-laws.

The first mayor, jurats and common council are named for life, unless removed. The first mayor, &c.

On vacancies of jurats by death or removal, the mayor, jurats and *common council* are to elect any person *not* of the common council to be a jurat, and power is given to the mayor, jurats and common council to fine any person elected who shall refuse to fill the office: such fine to be levied on his goods and chattels: a power which, it is quite obvious, presupposes that the person is an inhabitant householder in the place; because against no other person could the corporation exercise such a power; their jurisdiction, franchises and power being strictly limited, by the common law, to the bounds of the town and parish; beyond which they could neither summons, fine or distrain any person whatever. Vacancies of jurats.

On vacancies of common councilmen by death or removal, the mayor, jurats and *commonalty* are to elect any person out of the remaining principal inhabitants to be a Vacancies in common council.

common councilman; and a similar power of punishing recusants by fine and distress is given.

Every *principal inhabitant* is made subject to a fine, if he does not take an office imposed upon him by the corporation. It is absurd to suppose that they could have that power over persons not members of their body; and thus a general bye-law to this effect made by the corporation of Oxford was held void, because it might affect *strangers*, which a corporation cannot do. Dodwick's case, 1 Bulst. 11. Franklin *v.* Green, 2 Ver. 31.—3 Lev. 293,—1 Lev. 392.

Nor could the King by his charter make such a grant; for it is an imposition not allowed by the law; Law of Corporations, 218.

It is contrary to natural justice that a person should be subject to the burthens of the corporation, if he were not also to share in their privileges: this clause therefore appears to raise a decisive inference that the *inhabitants* were still treated by the Crown, in granting this charter, as the corporators.

Removal of jurats and common councilmen.

Power is then given to the mayor and the rest of the jurats and common councilmen to remove any jurat or common councilman for any crime, or other sufficient and notorious offence.

The election of mayor.

The jurats are annually to nominate two of the jurats; of whom the jurats and commonalty are to elect one to be mayor, who is to take an oath of office, &c.

It should here be observed, that by the clear construction of this charter, as well as of all the former charters, the *commonalty* here mentioned are the *inhabitants*, they being incorporated under the *name of commonalty*.

Vacancies of mayor.

A similar mode of election is directed on the vacancy created by the mayor in the middle of his year: at which election the senior jurats present are to preside.

In case of the sickness, or absence for reasonable cause, of the mayor, he is enabled to appoint one of the jurats to be his deputy, during his pleasure. Deputy mayor.

The mayor and jurats are enabled to elect one man learned in the law of England, to be recorder during the pleasure of the mayor and jurats. He is enabled to appoint another person, learned in the law of England, to be his deputy during his pleasure. Recorder.

Two sergeants at mace are to be appointed by the mayor; and their duty is specified, and their oath prescribed, as well as the maces they are to bear. Sergeants at mace.

The market, fairs, stallage, priseage, &c. and court of Pie Powder, with all fines, are confirmed. Markets, fairs, &c.

The charter then provides, that the mayor, jurats and *commonalty* may nominate, elect and admit any person, being an *inhabitant* or *not an inhabitant*, a freeman of the town and parish: and the person so nominated, elected or admitted, and the persons heretofore nominated, elected and admitted, in any other manner heretofore accustomed in the town, may be a freeman of the town and parish, and so may be called and held during their natural lives, if not removed for any reasonable cause by the mayor, jurats and commonalty. Freemen.

And the next clause prescribes the oath to be taken by the recorder, deputy recorder, jurats, common councilmen and freemen, before the mayor and jurats, (of whom the mayor is to be one,) for the faithful execution of their several offices and places respectively, as they have heretofore been used and accustomed. Oath.

These two clauses are in effect, and almost in words, the same as the corresponding clauses introduced, for the first time, in the charter of 17th James I. The only difference seems to be the substitution of *or* for *and* in the part of the clause which speaks of the

persons nominated, elected or admitted, which probably was purely accidental, and not intended to produce any real difference in the effect of the charters. If by the same species of hypercritical construction of every word (which has sometimes been adopted) this variance must in some manner be accounted for, the only reasonable explanation of it is, to suppose that it was introduced for the purpose of showing that either nomination, election or admission would make a freeman, and that all three were not necessary; which, however, is not very likely to have been intended.

These clauses have already been observed upon in the comments on the charter of 17th James I., and it is therefore useless to repeat them in this place.

Court. The court from 14 days to 14 days is confirmed with all its jurisdiction.

Bounds. The bounds of the town are defined anew: and power is given to the mayor to execute attachments, &c. within those limits.

Exemption from juries. The clause as to the exemption from juries is in substance and effect the same as the corresponding clause in the 2d of Queen Elizabeth, which it confirms. Observations have been made upon that clause, which are unnecessary to be repeated here.

Justices. For preserving the town and parish and the *inhabitants* thereof in peace and good government, the mayor, recorder, and three of the most ancient in the degree and order of jurats, are to be justices of the peace, and are to take their oaths as such; the justices of the county not intromitting. These (of whom the mayor and recorder are to be two) are to hear and determine all misdemeanors, &c. arising within the town, with a proviso not to determine any treason, felony, or offence touching life or lives.

The fines are given to the mayor and *commonalty*. Fines.

The mayor or his deputy is to be coroner, first taking an oath duly to execute the office before the former mayor; and no coroner of the county is to intromit. The fines are given to the corporation; and the mayor is to have the return of writs, so that no other officer of the Crown should intromit. Coroner. Return of writs.

Wharfage, anchorage, &c. are also granted, and the right of keeping and marking swans. Anchorage, &c.

The mayor, jurats and commonalty are empowered to assess, upon every *inhabitant*, reasonable sums of money for the public good and benefit of the town and parish, and the inhabitants thereof. Assessments.

This clause, for the reasons mentioned before, with respect to the fines for refusing office, clearly shows that the *inhabitants* were the persons who were to bear the burden, and consequently, by natural equity, to share the privileges of the place.

All lands, privileges, franchises, liberties, &c. enjoyed before the dissolution, are confirmed in the ordinary ample words. Corporation.

And that the grant shall be good, notwithstanding the not mentioning or naming the premises.

And notwithstanding the not duly reciting the former charters.

And the charter is to be without fee.

So far from any thing in this charter affecting, or in any degree defeating the title of the *inhabitants* to the rights and privileges granted by it, or enjoyed under former charters, it appears, like those charters, clearly to establish their right by every inference to be drawn from it, and to be throughout clear, uniform and consistent, if construed so as to make the *inhabitants* the object of it;

but obscure, disjointed and inconsistent, if the inhabitants are not treated as the grantees spoken of in it.

And there is no doubt that the general clause of confirmation operates as a revival of all their former rights, as far as they were not altered by this charter, and that the *inhahitants* were competent to accept this charter.

But, in fact, no question arises whether the privileges exercised before this charter are confirmed by it, because the charters, in substance and effect, as far as the present subject of inquiry is concerned, are uniform throughout.

And the same class of persons who were to enjoy the privileges under the first charter of Edward VI., namely, the *inhabitants*, were also to enjoy all the privileges granted by each of the subsequent charters; and we submit that this last charter, now the governing charter, is capable of that construction alone, and of no other.

In order that the whole of the charters may appear before the reader, we set forth a copy of it.

George the Second, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth.

Recital of former charters.

To all to whom these presents shall come, greeting:— Whereas our town and parish of *Maidstone*, in our county of Kent, is *an ancient and populous town:* and whereas the *inhabitants* of the said town and parish have *had* and *enjoyed* diverse liberties, jurisdictions, franchises, prehemiinences and immunities, by virtue of certain charters and letters patent of incorporation, of diverse of our ancestors or progenitors, Kings or Queens of England, by the name of the mayor, jurats and commonalty of the town and parish of Maidstone, in the county of Kent, or by whatsoever other

name or names they were called. And whereas, it has been represented to us by the humble petitions of the freemen, freeholders and other inhabitants of our said town and parish of Maidstone, that diverse disputes have of late arisen within the said *town* and *corporation*, and informations in nature of *quo warranto* having been prosecuted in our court of King's Bench, and *judgment of ouster obtained* against all the acting jurats of the said corporation, so that the said *corporation is now dissolved*, and the said town is incapable thereby of enjoying their said liberties and franchises. We willing that for ever hereafter there may be constantly had in the said town and parish *one certain and indubitable method for and concerning the mayor, jurats and other officers and ministers elective in the same town and parish*, and for and concerning the keeping of our peace, and the good order and government of our people there; and that the town and parish aforesaid for ever hereafter may be and remain a town and parish of peace and quiet, to the dread and terror of evil doers, and to the reward of good men, and that our peace and other acts of justice may be preserved there without any further delay; know ye therefore that we, at the humble petitions of the *freemen, freeholders and other inhabitants of the King's town and parish of Maidstone, in the county of Kent*, and by and with the advice of our privy council, of our especial grace, certain knowledge and mere motion, have willed, granted, ordained, constituted and declared, and by these presents, for us, our heirs and successors, do will, grant, ordain, constitute and *declare, that the said town and parish of Maidstone, in our county of Kent, may and shall be and remain for ever hereafter a free town and parish of itself; and that the* INHABITANTS OF THE SAME TOWN AND PARISH, *by whatsoever name or names of incorporation or incor-*

Petition of freemen, freeholders and inhabitants.

Declares the town to be free, &c.

porations they have heretofore been incorporated or called, and whether they have heretofore been incorporated or out, shall and may be for ever hereafter one body politick and corporate, in deed and in name, by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent: And them by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, we do really and fully, for us, our heirs and successors, erect, make, ordain, *constitute, create, confirm* and declare, by these presents, one body politick and corporate, in deed and in name; and that by the same name they may have perpetual succession: And that they, by the name of the mayor, jurats and *commonalty* of the King's town and parish of Maidstone, in the county of Kent, shall and may be at all times hereafter persons able and capable in the law, and a body politick and corporate, and capable in the law to have, acquire, take, possess, enjoy and hold, lands, tenements, liberties, privileges, jurisdictions, franchises and hereditaments, of whatsoever kind, name, nature, quality or sort they may be, to them and their successors, in fee and perpetuity, or for term of life or years otherwise howsoever: And also goods and chattels, and whatsoever other things of whatsoever kind, name, nature, quality or sort they may be: And also to give, grant, demise, alien, assign and dispose of lands, tenements and hereditaments; and to do and execute all and singular other acts and things by the name aforesaid: And that by the name of the mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, they may plead and be impleaded, answer and be answered, defend and be defended, in whatsoever courts and places, and before whatsoever judges and justices, and other persons and officers of

us, and of our heirs and successors, in all and singular actions, pleas, suits, plaints, causes, matters and demands whatsoever, of whatsoever kind, name, nature, quality or sort they shall or may be, in the same manner and form as any other our liege people of our kingdom of Great Britain, persons able and capable in the law, or any other body politick and corporate within our kingdom of Great Britain, may or may be able to have, acquire, take, possess, enjoy, hold, give, grant, demise, alien, assign and dispose, plead and be impleaded, answer and be answered, defend and be defended, do or execute. And that the mayor, jurats, and commonalty of the King's town and parish aforesaid, and their successors, may, for ever, have a *common seal*, to serve for transacting all the occasions and businesses of them and their successors: And that it shall and may be lawful for the said mayor, jurats and commonalty, and their successors, at their pleasure, from time to time, to break, change, and new make that seal, as to them shall seem expedient. And further we will, and by these presents for us, our heirs and successors, do grant to the said mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, and their successors, that the said town and parish of Maidstone, and the liberties and precincts of the same, from henceforth for ever shall be, may extend and reach, to take effect, as to all and singular things in these our present letters patent contained and specified, to such and the like bounds, limits and boundaries, as they were used heretofore to reach and extend. And further we will, and by these presents, for us, our heirs and successors, *do grant and ordain*, that from henceforth for ever there shall and may be, within the town and parish aforesaid, *thirteen of the inhabitants of the same town and parish, to be*

Thirteen of the inhabitants to be chosen and called jurats, one whereof to be mayor.

chosen in the manner hereafter in these presents mentioned, who shall be and be called jurats of the said town and parish. And that there shall and may be likewise one of the same jurats to be *chosen* in the manner hereafter in these presents mentioned, who shall be and be called the *mayor* of the King's town and parish of Maidstone;

Duty of jurats.

which said jurats, not being in the office of mayor of the town and parish aforesaid, shall be from time to time *aiding and assisting unto the mayor* of the said town and parish for the time being, *in all causes and matters touching or concerning the said town and parish.*

Forty of the remaining principal inhabitants to be chosen and called the common council.

And that there shall and may be, *forty of the remaining principal inhabitants of the same town and parish,* to be chosen in the manner hereafter in these presents mentioned, which shall be and be called the *common council* of the said town and parish: and further, we will, and by these presents, for us, our heirs and successors, *do grant unto the mayor, jurats, and commonalty of the King's town and parish aforesaid* and their successors, that the *mayor, jurats and common council* of the town and parish aforesaid for the time being, upon public summons to be made thereof, being assembled for that

Power of making laws.

purpose, shall and may have full *power and authority of framing, appointing, ordering and making, whatsoever reasonable laws,* statutes, constitutions, decrees and ordinances in writing, from time to time, which to them, or the major part of them, (of whom the mayor of the said town and parish for the time being we will shall be one,) shall, according to their directions, seem to be good, wholesome, profitable, honest and necessary for the good order and government of the town and parish aforesaid; *and of all and singular officers, ministers, artificers, inhabitants and residents whatsoever,* within the town and parish aforesaid, and the liberties of the same

for the time being. And for the declaration in what manner and order they, the said *mayor, jurats and commonalty of the town and parish aforesaid, and all and singular officers, ministers, burgesses, artificers, inhabitants and residents of the said town and parish, shall behave themselves,* HAVE AND USE, *in their offices, functions, ministries, artifices and businesses,* within the town and parish aforesaid, and the liberties and precincts of the same, for the time being, for the further public good, common utility, and good government of the same town and parish, and for the victualling of the same town and parish, and for other matters and things whatsoever in anywise touching or concerning the said town and parish. And that the mayor, jurats and common council of the town and parish aforesaid for the time being, or the major part of them, (of whom we will the said mayor of the town and parish aforesaid for the time being shall be one,) as often as they shall have made, framed, ordained, or established such laws, institutions, ordinances and constitutions, in manner aforesaid, may make, ordain, limit and provide such and the same punishments, pains and penalties, by fines or amerciaments, against and upon all delinquents against such laws, ordinances and constitutions, or any or either of them, as and which to the said mayor, jurats and commonalty of the town and parish aforesaid for the time being, or the major part of them, (whereof the said mayor of the town and parish aforesaid for the time being we will shall be one,) shall seem best to them, to be necessary, fit and requisite, for the observance of the said laws, ordinances and constitutions. And may levy and have the same fines and amerciaments to the use of the said mayor, jurats and commonalty of the town and parish aforesaid, and of their successors, without the hindrance of us, our heirs or

successors, or of any officer or officers, minister or ministers of us, our heirs or successors, or without any account to be given thereof to us, our heirs or successors. All and singular which laws, ordinances and constitutions, so as aforesaid to be made, we will, for us, our heirs and successors, shall be observed under the penalties in the same to be contained; so as nevertheless that such laws, ordinances and constitutions, fines and amerciaments be reasonable, and be not repugnant nor contrary to the laws, statutes, customs or rights of our kingdom of Great Britain. And for the better execution of our will and grant in this behalf, we have appointed, named, created, constituted and made, and by these presents, for us, our heirs and successors, do appoint, name, create, constitute and make our well-beloved Edward Hunter, esquire, to be the first and modern mayor of the town and parish aforesaid; willing that the said Edward Hunter shall be and continue in the office of mayor of the said town and parish from the date of these presents until the second day of November, commonly called the commemoration of All-Souls, next ensuing, if the said Edward Hunter shall so long live. We have also appointed, named, created and constituted, and by these presents, for us, our heirs and successors, do appoint, name, create and constitute the said Edward Hunter and Joseph Smalwell, John Mason, Thomas Nightingale, Thomas Argles, John Harris, Richard Mussary, Stephen Page, George Curteis, John Rogers, Thomas Pope the younger, Jonathan Weldish, and Samuel Stevenson the younger, to be the first and modern thirteen jurats of the said town and parish, to continue in the same offices during their several natural lives, unless they, or any or either of them, shall in the mean time be removed from those offices by the mayor, jurats and common council, duly

assembled, or the major part of them, for misgovernment or misbehaviour therein, or for any other reasonable cause. We have moreover appointed, named, created and constituted, and by these presents, for us, our heirs and successors, do appoint, name, create and constitute Roger Harris, Edward Argles, Thomas Hassel, David Polhill, James Baxter, William Russell, Thomas Baytop, Richard Wottal the younger, Nicholas Rawlings, William Manser, John Rawlings, Robert Pine, William Purlis, William Borman, John Pope, Shaddrack Illden, Stephen Prentis, Samuel Stevenson the elder, William Davis, Richard Shepherd, Samuel Ellis the elder, William Foster, Edward Ellis, John Alexander, Thomas Wildes the elder, Henry Jefferys, William Stacey, George May, John Barnes, John Rudkin, Thomas Rhode, Tobias Hammond, Stephen Goffe, Thomas Benstead, Simon Goldwell, John Adams, Thomas Broomfield, John Reader, Thomas Wildes the younger, and Josiah Lane, to be the first and modern forty common councilmen of the said town and parish, to continue in the same office during their several natural lives, unless they, or any or either of them, shall in the mean time be removed from those offices by the mayor, jurats, and the rest of the common councilmen, or the major part of them, duly assembled, for misgovernment or misbehaviour therein, or for any other reasonable cause. And further we will, and by these presents, for us, our heirs and successors, *do give, grant, constitute and ordain,* Jurats. that as often as any of the jurats of the town and parish aforesaid for the time being shall happen to die, or be removed for any reasonable cause from his or their office or offices, that then it shall and may be lawful to and for the said *mayor, jurats and common council* of the King's town and parish of Maidstone aforesaid, and their suc-

cessors, from time to time duly assembled, or the majority of them, henceforth to nominate and elect any person or persons out of the common councilmen to be a jurat or jurats of the said town and parish. And if any person or persons to be nominated or elected, so as aforesaid, into the office of jurat or jurats, shall refuse to take upon himself or themselves and execute that office and place, then we will, and for us, our heirs and successors, do grant to the said *mayor and jurats and commonalty* of the King's town and parish aforesaid, and their successors, that it shall and may be lawful to the said *mayor, jurats and common council,* and their successors, or the major part of them, for the time being, to impose and assess a *reasonable* fine or sum of money upon such person or persons so refusing the said office or place of jurat or jurats; and to levy the same fine or sum of money so assessed and imposed, by distress of the goods and chattels of the same person or persons so refusing, according to the laws and statutes of this our kingdom of Great Britain; and shall and may from time to time take, receive and retain the same to the proper use and behoof of the said mayor, jurats and commonalty, and their successors. And further we will, and by these presents, for us, our heirs and successors, do grant and ordain, that as often as any of the *common councilmen shall happen to die,* or be removed for any reasonable cause from his or their office or offices, that then it shall and may be lawful to and for the *said mayor, jurats and commonalty* of the King's town and parish of Maidstone aforesaid, and their successors, from time to time duly assembled, or the majority of them, *henceforth to nominate and elect any person or persons out of the remaining principal inhabitants of the said town and parish,* to be a common councilman or common councilmen of the same town and parish. And that such person

In case of the death of common councilmen, other persons to be chosen out of the remaining principal inhabitants.

or persons hereafter to be nominated and elected, shall be a common councilman and common councilmen of the same town and parish, as any common councilman or common councilmen of the same town now is or are. And if *any person* or persons to be *nominated* or elected, so as aforesaid, into the office or place of common councilman or common councilmen, shall *refuse* to take upon himself or themselves and execute that office and place, then we will, and for us, our heirs and successors, do grant unto the said mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that it shall and may be lawful to the said *mayor, jurats and common council,* and their successors, or the major part of them for the time being, to *impose and assess a reasonable fine or sum of money upon such person or persons so refusing the said office or place of common councilman or common councilmen,* and to levy the said fine or sum of money so assessed and imposed, by distress of the goods and chattels of the said person or persons so refusing, according to the laws and statutes of this our kingdom of Great Britain; and shall and may, from time to time, take, receive and retain the same, to the proper use and behoof of the said mayor, jurats and commonalty, and their successors. We will, moreover, that if a crime or other sufficient and notorious offence shall be found in any jurat or common councilman there for the time being, that then it shall and may be lawful to and for the said *mayor* and the rest of the *jurats and common councilmen* of the town and parish aforesaid, or the major part of them then present, being duly assembled, to remove and expel such jurat or common councilman from the office of jurat or common councilman of the town and parish aforesaid respectively. We will, moreover, and by these presents, for us, our heirs and successors, do grant to the said

Penalty on refusal.

Court to assemble on the 2d Nov. to nominate two jurats, in order to elect one mayor.

mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that the jurats of the said town and parish, or the major part of the said jurats for the time being, may henceforth and for ever hereafter, from time to time, assemble every year on the said *second day of November, commonly called* the commemoration of *All-Souls*, or if the said day shall happen to be on a Sunday, then the next day after, in any convenient place within the said town of Maidstone; and shall and may there nominate *and appoint two men*, then being *jurats* of the said town and parish, to the intent and purpose that the rest *of the jurats and commonalty* of the said town and parish being then there present, or the major part of them, *may elect one out of those two, so to be nominated and appointed, to be the mayor of the town and parish aforesaid for one whole year thence next following:* and that after the said two men shall be nominated and appointed as aforesaid, it shall and may be lawful to the rest of the jurats and commonalty of the said town and parish, or the major part of them, to elect and prefer one of the same two men, so nominated and appointed, to be mayor of the town and parish aforesaid. And that he of the said two men, so chosen and preferred as aforesaid, before that he be admitted to the execution of the office aforesaid, shall take his corporal *oath before the then last mayor*, his predecessor, *or, in his absence*, before the *two senior jurats* of the said town and parish aforesaid then present, for the true and faithful execution of his office of mayor of the town and parish aforesaid, in all things touching that office: and that after his having taken such oath as aforesaid, he may execute the office of mayor of the town and parish aforesaid for one whole year then next following the said election, if he shall so long live, unless he shall be in the mean time removed from the said

office for some reasonable cause. And moreover we will, and by these presents, for us, our heirs and successors, do grant to the said mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that if it shall happen that the *mayor* of the town and parish aforesaid for the time being *shall die* or be removed from that office, at any time *within one year* after he shall be elected, sworn and preferred, so as aforesaid, to the office of mayor of the town and parish aforesaid, that then and so often it shall and may be lawful to the jurats and commonalty of the said town and parish, or the major part of them, to elect and prefer one of the two jurats to be nominated in manner aforesaid, by the jurats or the major part of them, to be mayor of the town and parish aforesaid; at which respective nominations and elections the senior jurats then present shall preside. And that he who shall be so elected, preferred and nominated to the office of mayor of the town and parish aforesaid, having first taken his corporal oath, in the manner aforesaid, may have and exercise the office of mayor of the town and parish aforesaid during the remainder of the same year, and so as often as the case shall so happen. And further we will, and by these presents, for us, our heirs and successors, do grant to the said mayor, jurats and commonalty of the town and parish aforesaid, and their successors, that if it shall happen that the *mayor* of the town and parish aforesaid for the time being shall be so *afflicted with sickness* that he shall not be able to attend the necessary business of the said town and parish, or shall be *absent* from the said town for some reasonable cause, that then and so often it shall and may be lawful for the mayor of the town and parish aforesaid for the time being to make, constitute and substitute, from time to time, *one of the jurats* of the town and parish aforesaid

Provision in case of mayor dying within the year.

Power of mayor in certain cases to appoint deputy.

to be the deputy of him the said mayor for the time being, so *afflicted with sickness, or absent for some reasonable cause,* to continue in the same office of deputy of the mayor of the town and parish aforesaid, in the absence or sickness of the mayor of the town and parish aforesaid for the time being, during the pleasure of him the said mayor of the town and parish aforesaid for the time being; which said deputy of the mayor of the town and parish aforesaid, so as aforesaid deputed and constituted deputy of the mayor of the town and parish aforesaid for the time being, may do and execute, during the pleasure of the mayor of thet own and parish aforesaid for the time being, in the absence or sickness of him the said mayor for the time being, all and singular the things which appertain and ought to belong to the office of mayor of the town and parish aforesaid to be done and executed within the same town and parish. We will, moreover, and by these presents, for us, our heirs and successors, do grant and ordain, that the said mayor and jurats of the same town and parish for the time being, and their successors, or the major part of them, may, from time to time hereafter, nominate and elect *one man, learned in the law of England, recorder of the King's town and parish aforesaid.* And that he to be so nominated and elected shall and may be and be called *recorder* of the same town and parish, and may have and hold the same office or place of recorder during the pleasure of the said mayor and jurats for the time being, or the major part of them. And that it shall and may be lawful to and for the *recorder* of the town and parish aforesaid for the time being to make, constitute and substitute one other person, learned in the law of England, to be *deputy of him the said recorder* for the time being; to continue in the same office of deputy of the recorder of the town and

Power to elect a recorder, who may nominate a deputy.

parish aforesaid, during the pleasure of him the said recorder of the town and parish aforesaid for the time being; which deputy of the recorder of the said town and parish aforesaid, so as aforesaid to be deputed and constituted deputy of the recorder of the town and parish aforesaid for the time being, may do and execute, during the pleasure of the recorder of the town and parish aforesaid for the time being, all and singular the things which appertain and ought to belong to the office of recorder of the town and parish aforesaid, to be done and executed within the same town and parish. And moreover we will, and by these presents, for us, our heirs and successors, do grant to the said mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that from henceforth and for ever there shall and may be, in the town and parish aforesaid, one officer or two officers who shall be and be called *sergeant or sergeants at mace*, to serve in the court of the town and parish aforesaid, and for making proclamations, arresting and executing of the processes, mandates and other affairs belonging to the office of sergeant at mace to be done and executed, from time to time, in the town and parish aforesaid, and the limits, bounds, and precincts of the same: which said sergeant or sergeants at mace, so to be appointed, nominated, and elected by the mayor of the town and parish aforesaid for the time being, shall be from time to time attendant upon the mayor of the town and parish aforesaid for the time being; and that the said sergeant or sergeants at mace, so as aforesaid to be elected and nominated, shall and may be in due manner sworn, before the mayor of the town and parish aforesaid for the time being, for the true and faithful execution of his or their office aforesaid; and that, after having taken such oath, he or they shall and may exercise and

execute that office during the pleasure of the mayor of the said town and parish for the time being. And further we will and ordain, and by these presents, for us, our heirs and successors, do grant to the said mayor, jurats and commonalty of the town and parish aforesaid, and their successors, that the said sergeants at mace to be deputed in the town and parish aforesaid, shall bear or carry one or two gilt or silver maces, and engraved with the arms of us, our heirs and successors, every where within the said town and parish, and the precincts of the same, before the mayor of the town and parish aforesaid.

The patents of Elizabeth, granting market, &c.

And whereas our royal ancestor, *Elizabeth, heretofore* Queen of England, by her letters patent under the great seal of England, bearing date at Westminster, the 4th day of December, in the second year of her reign, did, for herself, her heirs and successors, among other things, *grant unto the mayor, jurats and commonalty of the town and parish of Maidstone*, in the county of Kent, and their successors, *one market within* the said town of Maidstone, in a certain place there called the Market-place, to be held and kept then after for ever on Thursday in every week, with all tolls, customs and other profits belonging to markets; and also four fairs to be held and kept in the said town of Maidstone, in such places where the mayor of the same town and parish for the time being should appoint them to be held, by proclamation for that purpose made within the same town and parish, (to wit) one thereof to begin in every year then after at noon of the last day of April, and to last until noon of the second day of the month of May then next following; another thereof to begin every year thereafter at noon of the eve of the feast of St. Edmund the King and Martyr, and to last until the noon of the morrow next following the day of the said feast; and another to begin in every year thereafter for ever at noon

of the eve of the feast of St. Faith the Virgin, and to last until noon of the morrow next following the said feast day; and the other to begin every year thereafter at noon of the eve of the feast of the Purification of the blessed Virgin Mary, and to last until noon of the morrow next following the said feast day: and all and singular tolls, tributes, stallage, and other things whatsoever coming or growing from the said fairs or markets, and every of them, or by reason of the said fairs or markets, or either of them; and a Pye Powder court to be held in the same fairs and markets, and every of them, and all fines, amerciaments, forfeitures, profits and emoluments coming, growing and arising, as well within the said Pye Powder court as by reason and occasion of the same, as by the said recited letters patent more fully and at large appear. And whereas also our royal predecessor, *King James I.*, did afterwards, by his letters patent under the great seal of England, bearing date the thirty-first day of December, in the second year of his reign, *regrant and confirm* the said markets and fairs, and other the liberties and privileges before granted by the said recited letters patent of our royal predecessor, Queen Elizabeth, to the then mayor, jurats and commonalty of the town and parish of Maidstone aforesaid, and their successors, for the greater security of them, as by the said last recited letters patent may more fully appear. And whereas the said *King James I.* did afterwards, by other his letters patent, bearing date the twenty-eighth day of July, in the seventeenth year of his reign, for himself, his heirs and successors, ratify, approve and confirm to the said mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, and their successors, the aforesaid markets, fairs, courts of Pye Powder, tributes, customs, tolls, stallages and profits, coming, grow-

Letters patent of King James, regranting market, &c.

Letters patent of King James, ratifying market.

ing and arising in the said markets, fairs and courts, or in anywise belonging or appertaining to the same. And the said King James I. did thereby, moreover, for the better security of the then mayor, jurats and commonalty, and their successors, of and in the premises, give and grant for himself, his heirs and successors, to the said mayor, jurats and commonalty, and their successors, the said markets, fairs, Pye Powder court, piccages, tributes, customs, tolls, stallages, and all and singular other profits whatsoever in any manner belonging, appertaining, arising, growing or happening to the said markets, fairs, and Pye Powder courts. And that it should and might be lawful for the said mayor, jurats and commonalty, and their successors, (if they should think it expedient,) at their pleasure, from time to time, to extend the market aforesaid beyond the said place called the Market-place, or to hold and keep the same market in any other convenient place within the same town; willing, and by the said last recited letters patent granting, for himself, his heirs and successors, to the said mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, that they and their successors for ever hereafter should and might have, take, hold and enjoy, to their own proper use and behoof, in and from the said market and fairs, reasonable piccage money for the showing of goods and merchandizes there to be sold or exposed to sale, called show money, stallage, tributes, tolls, customs, commodities, profits, rights and jurisdictions, of whatsoever nature, kind or sort, in any wise belonging or appertaining to any markets or fairs, and in as ample manner and form as were then or had then been in anywise lawfully received, had or taken in the same, or in any other markets or fairs within any city, borough or town in the county of Kent, although

the same profits were not named or declared particularly or by express names in those his letters patent, or in the said letters patent of Elizabeth Queen of England, as by the said letters patent of the seventeenth year of King James I. may more fully appear. Know ye, therefore, that we, willing to show further grace and favour to the mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid, have ratified, approved and confirmed, and by these presents, for us, our heirs and successors, do ratify, approve and confirm, unto the said mayor, jurats and commonalty of the King's town and parish of Maidstone, in the county of Kent, and their successors, the aforesaid markets, fairs, Pye Powder courts, tributes, customs, tolls, stallages and profits, coming, growing and arising in the said markets, fairs and courts, in anywise belonging or appertaining to the same. And further, for the better security of the said now mayor, jurats and commonalty, and their successors, of and in the premises aforesaid, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said mayor, jurats and commonalty, and their successors, the said markets, fairs, Pye Powder courts, piccages, tributes, customs, tolls, stallages, and all and singular other profits whatsoever in any manner belonging, appertaining, arising, growing or happening to the said markets, fairs and Pye Powder courts. And that it shall and may be lawful for the said mayor, jurats and commonalty, and their successors, (if they shall think it expedient,) at their pleasures, from time to time, to extend the market aforesaid beyond the said place called the Market-place, or to hold and keep the same market in any other convenient place within the same town; willing, and by these presents granting, for us, our heirs and successors, to the said mayor, jurats

Confirmation of market, &c.

and commonalty of the King's town and parish of Maidstone aforesaid, and their successors, that they and their successors for ever hereafter shall and may have, take, hold and enjoy, to their own proper use and behoof, in and from the said markets and fairs reasonable piccage money for the showing of goods and merchandizes there to be sold or exposed to sale, called show money, stallage, tributes, tolls, customs, commodities, profits, rights, and jurisdictions of whatsoever nature, kind, or sort, in anywise belonging or appertaining to any markets or fairs; and in as ample manner and form as are or have been in anywise lawfully received, had or taken, in the same or in any other markets or fairs within any city, borough or town, in the county of Kent, although the same profits are not named or declared particularly, or by express names, in these our letters patent, or in either of the letters patent before recited, or in any or either of them. We will, moreover, and by these presents, for us, our heirs and successors, *do grant and ordain,* that the said *mayor, jurats and commonalty of the King's* town and parish aforesaid for the time being, and their successors, or the major part of them, *shall and may nominate, elect and admit, any person or persons, being an inhabitant or not an inhabitant of the same King's town and parish of Maidstone aforesaid, a freeman or freemen of the same town and parish. And that he or they, so as aforesaid, hereafter to be nominated, elected or admitted, and he or they heretofore nominated, elected and admitted in any other manner as hath been heretofore accustomed in the same town, may be a freeman and freemen of the town and parish aforesaid, and so may be called and held during their natural lives, if they shall not be removed for any reasonable cause by the said mayor, jurats and commonalty, or the major part of them, for the time being.* And we will that the recorder, depu-

Power to admit any person as freeman.

ty-recorder, jurats, common councilmen, and freemen, so as aforesaid to be nominated, elected and admitted, from time to time, and every of them respectively, shall take their several oaths, upon the holy Evangelists, before the mayor and jurats for the time being, or the major part of them, (of whom we will the mayor for the time being to be one,) for the true and faithful execution of their several offices or places respectively, as the steward or recorder, jurats and freemen of the town and parish aforesaid have heretofore been used or accustomed. And whereas also the said Queen Elizabeth, by her said letters patent, did grant to the said mayor, jurats and commonalty, and their successors, full power and authority to hold a court before the mayor of the town and parish aforesaid for the time being, in a convenient place within the town aforesaid, to be appointed by the mayor of the town and parish aforesaid for the time being, from fourteen days to fourteen days, on Tuesday: And in the same court to hold pleas, as well of assize of novel desseisin, and whatsoever other pleas, actions, plaints and suits, in anywise concerning messuages, lands and tenements being within the town or parish of Maidstone aforesaid, as whatsoever actions, suits, plaints and demands, as well real and personal as mixt, happening, arising or growing within the town and parish aforesaid, or either of them, although they should or should not exceed the sum of forty shillings. And the said late Queen Elizabeth did will, by her said letters patent, that the town and parish of Maidstone aforesaid, and the liberties of the same, should extend themselves by the water of Medway, from a certain bridge called Eastfarleigh Bridge, unto a certain place called Hawkwood, as in the same letters patent more fully appears. And whereas the said water of Medway, between the said bridge called Eastfarleigh Bridge

and the place aforesaid called Hawkwood, flows by and through the town and parish of Maidstone aforesaid, and by and through the several towns of Eastfarleigh, Barminge, Looze, Boxley, Allington, and by certain streets called Milhale and Newhyth in the parish of East Mallynge in our county of Kent aforesaid: and the same town and parish of Maidstone aforesaid extends itself promiscuously in, by and through the town of Looze aforesaid, and Linton in the county aforesaid, and beyond and also by the said towns of Eastfarleigh, Barminge and Boxley, and by the town of Otham in our county of Kent aforesaid, as we have had certain information thereof. We now intending to put into certainty, and limit unto what parishes, towns, hamlets and streets, and how and how far the liberties and jurisdictions of the mayor, jurats and commonalty of the King's town and parish of Maidstone aforesaid should reach and extend themselves, as to the hearing and determining pleas in their court aforesaid; we will, and by these presents, for us, our heirs and successors, of our like especial grace, certain knowledge and mere motion, do grant, ordain and declare, that the liberties of the King's town and parish of Maidstone aforesaid, and also the jurisdictions of the mayor, jurats and commonalty of the same town and parish, and their successors, for the future, may extend and reach, and henceforth may be had and reputed and adjudged so to extend and reach, only as to the cognizance and determination before the said mayor for the time being, and his successors, of all and all manner of actions, personal and mixt, and of granting replevins, (and to no other intents, constructions and purposes,) into, by and through the aforesaid towns and parishes of Eastfarleigh, Barmynge, Looze, Boxley, Allington, Milhale, Newhyth, Linton and Otham, although the actions aforesaid, or any or either of them,

may or may not exceed the sum of forty shillings; so as that nevertheless such cognizance and termination of actions, personal and mixt, and replevins aforesaid, arising within the town and places aforesaid, granted and confirmed by these presents to the same mayor, jurats and commonalty, be not to the damage or prejudice of the jurisdictions, customs, liberties or privileges of any other of our subjects, there to be had, or lawfully claiming any thing in that behalf. And that for the better execution of the same actions, personal and mixt, and replevins, it shall and may be lawful for the said mayor for the time being to make and execute attachments, and all other legal processes and executions, into and through the aforesaid parishes, towns, streets and hamlets of Eastfarleigh, Barminge, Looze, Boxley, Allington, Millhale, Newhyth, Linton and Otham, by the sergeant or sergeants at mace, or by other person or persons to be nominated and appointed by him the said mayor for the time being, as the law requires in that behalf. And whereas the said late *Queen Elizabeth*, by her said letters patent, did grant to the same mayor, jurats and commonalty, and their successors, that they *and every inhabitant of the same town and parish*, from thenceforth for ever, should be exempted and exonerated from all and all manner of *juries and inquisitions* to be returned, had or taken before whatsoever justices of the same late Queen, her heirs or successors, except in the said town of Maidstone, although the said Queen, her heirs or successors, should be parties in the same juries or inquisitions. We also, for the better certainty of the exemptions of the *inhabitants* of the town and parish from the juries and inquisitions aforesaid, of our like especial grace, and of our certain knowledge and mere motion, for us, our heirs and successors, do will, grant and declare, by these presents, that the said mayor,

Inhabitants exempt from serving on juries.

jurats and commonalty of the King's town and parish aforesaid, and their successors, *and every inhabitant from time to time* of the same King's town and parish, or any or either of them, shall not be put or impanelled on any juries or inquisitions to be taken before the justices of us, our heirs or successors, to hear and determine felonies, trespasses, and other misdemeanors in the county aforesaid, or before the justices of us, our heirs or successors, of *Nisi Prius*, or of gaol delivery in the county of Kent aforesaid, or before the escheators, and other commissioners or ministers of us, our heirs and successors, without the town and parish of Maidstone aforesaid. And that the sheriff of our county of Kent aforesaid for the time being doth not put or impannel, nor shall cause to be put or impannelled, the said *mayor, jurats and commonalty*, and their successors, *or any inhabitants* of the same town of Maidstone, on such juries and inquisitions to be taken, as aforesaid, without the town and parish aforesaid. And moreover we, for the better preserving and keeping the said town and parish of Maidstone, and the inhabitants of the same, in peace and good government, of our especial grace, certain knowledge and mere motion, for us, our heirs and successors, have willed, granted and ordained, and by these presents do will, grant, and ordain, that the *mayor* and *recorder* of the town and parish of Maidstone aforesaid for the time being, and *three of the most ancient in the degree and order of jurats* in the same town and parish for the time being, and every of them, and their successors, so long as they shall have and hold their offices or places respectively, shall and may be, and every of them shall and may be, a justice and justices of us, our heirs and successors, to preserve the peace of us, our heirs and successors, within the town and parish aforesaid, and to do, perform and execute all and singular matters and things

which belong to the office of a justice of the peace of us, our heirs and successors, in as ample manner as other justices of the peace of our county of Kent have been accustomed to do and execute. And that no justice of the peace of the county of Kent aforesaid do in anywise intermeddle within the said town and parish of Maidstone, to do any thing which thereto belongeth or appertaineth to the office of the justice of the peace. Which said mayor, recorder, and three of the most ancient jurats of the town and parish aforesaid for the time being, nominated so as aforesaid to be justices of the peace, and every of them, shall take their corporal oaths upon the holy Evangelists, for the faithful doing and executing the office or place of justices of the peace there, before the rest of the jurats then for the time being. And that the said mayor, recorder, and three of the most ancient jurats of the town and parish aforesaid, as aforesaid, for the time being, and their successors, or any three of them, (of whom the mayor and recorder of the town and parish aforesaid for the time being we will shall be two,) shall and may have, from henceforth for ever, full power and authority to inquire, hear and determine all and singular trespasses and misdemeanors of whatsoever kind, nature or sort, arising within the town and parish aforesaid, as justices of the peace in the county of Kent, two or more of them may or can, do, act or perform, as well in as out of their sessions, by virtue of our commission or commissions to them made for that purpose; so as that nevertheless they do in nowise proceed to the determining of any treason or felony, or any other offence touching the loss of life or members, without the special mandate of us, our heirs or successors, in that behalf. And that the said mayor, jurats and commonalty of the town and parish aforesaid, and their successors, may have, take and receive, to their

own proper use, all and singular fines, forfeitures and issues of jurors for their non-appearance; and also fines and forfeitures, for trespasses, and other misdemeanors and contempts, before the said mayor, recorder and three jurats, justices of the peace, or three of them, as aforesaid, from time to time happening, growing, or arising within the town and parish aforesaid. And further, of our like especial grace, certain knowledge and mere motion, we have willed, given and granted, and by these presents, for us, our heirs and successors, do will, give and grant to the said mayor, jurats and commonalty of the town and parish aforesaid, and their successors, that the said Edward Hunter, and every mayor of the town and parish aforesaid from henceforth happening, during the time of his mayoralty, shall and may be the coroner of us, our heirs and successors, in and through the town and parish of Maidstone aforesaid. And that he by himself, or by his sufficient deputy, to be nominated or deputed in that behalf under the seal of the said mayor, shall and may do and perform all and singular things within the said town and parish aforesaid which belong or appertain to the office of coroner, in as ample manner and form as any coroner of any county of that part of our kingdom of Great Britain called England, or of any liberty within those liberties may, ought, or can lawfully inquire, act, do, execute or fulfil; the said Edward Hunter, and every future mayor, first taking his corporal oath for the good and faithful execution of that office in this behalf; that is to say, the said Edward Hunter, before two or more of the said persons whom we have hereby appointed jurats; and every future mayor, before the last mayor, his predecessor, or his deputy; or in case of the death or removal of the last preceding mayor, then before two or more of the jurats for the time being. To which said last mayor, and

his successors, and their respective deputies, and the said jurats, from time to time, we do by these presents, for us, our heirs and successors, give and grant full power and authority to administer such oath; and that no other coroner of our county of Kent aforesaid do hereafter enter within the town and parish of Maidstone aforesaid, to do any thing which belongs or appertains to the office of coroner. And further, we, of our especial grace, certain knowledge and mere motion, have given, granted and confirmed, and by these presents, for us, our heirs, and successors, do give, grant and confirm, unto the said mayor, jurats and commonalty of the town and parish of Maidstone aforesaid, and their successors, to their own proper use and behoof, all and singular goods and chattels, waifes, estreats, fines, forfeitures and other profits and emoluments, heretofore given and granted to the said mayor, jurats and commonalty, and their successors, by the said recited letters patent of Queen Elizabeth, and also the goods and chattels of felons and fugitives outlawed or put in exigent, hereafter happening, growing, or arising, by water or by land, within the town and parish aforesaid. And that the mayor of the town and parish aforesaid for the time being, and his successors, shall and may have, from time to time, return of all and singular writs, mandates, and precepts of us, our heirs and successors, within the said town and parish aforesaid, hereafter to be made and executed, so that our sheriff, coroner, or escheator, in the county of Kent, or other ministers of us, our heirs or successors, or any of them respectively, do in nowise intermeddle himself, or themselves, to act or do any thing in the premises within the town and parish aforesaid. We will, moreover, and by these presents, of our especial grace, certain knowledge and mere motion, do, for us, our heirs and successors,

grant unto the said mayor, jurats and commonalty, and their successors, that they shall and may have, take and enjoy, to their own proper use and behoof, wharfage, anchorage, and groundage, of all and singular ships and other vessels, of whatsoever kind or burden, coming to the said town and parish of Maidstone; and reasonable wages and fees for lading and unlading of merchandises, goods and chattels, in the said ships or vessels, there to be laded or unladed, into or out of the said ships or vessels. And that also the said mayor or jurats and commonalty, and their successors, may likewise have, through the water aforesaid, from the aforesaid bridge called Eastfarleigh Bridge unto Hawkwood, the liberty or privilege of keeping and preserving swans and cygnets, and a swan-mark for the same; and to change and alter that swan-mark at their pleasure. And also all and singular swans and cygnets through the water aforesaid, or within the bounds and limits aforesaid, and the banks and ground of the same, building nests, breeding, or frequenting, and not legally marked or noted, with the swan-mark aforesaid to mark and note. And full power and authority to pursue, retake, bring back and have again, the swans and cygnets aforesaid, swimming or wandering by water and land out of the limits and bounds aforesaid, without the hindrance of us, our heirs or successors, or of any other our officers or ministers, or of any other persons whatsoever. We grant, moreover, for us, our heirs and successors, unto the said mayor, jurats and commonalty of the town and parish of Maidstone aforesaid, and their successors, that they, or the major part of them, for the better support of the charges of the town and parish aforesaid, or for other reasonable causes or respects, or for the *publick good* and benefit of that town and parish, and *of the inhabitants*

thereof, shall and may lawfully, from time to time, make, impose, and assess, *reasonable taxes and assessments*, in reasonable sums of money, upon themselves *and every inhabitant there;* and may have, take and levy the same by distress, or in any other legal manner, as they have heretofore been used and accustomed. We will, moreover, and by these presents, for us, our heirs and successors, do grant and confirm unto the said mayor, jurats and commonalty of the King's town and parish aforesaid, and their successors, that they and their successors shall and may have, hold, enjoy and use, from henceforth for ever, *all and singular* such lands, tenements, hereditaments, goods and chattels, *liberties, powers, authorities, franchises, immunities, indemnities, and free customs,* as the said town and parish of Maidstone, or the said late mayor, jurats and commonalty of the said town *before the said* dissolution, or their predecessors, *have lawfully* had, held or enjoyed, *by virtue of any charters or letters patent* by us or by any of our progenitors heretofore Kings or Queens of England, *or otherwise by any lawful means, right or title whatever, although the said* franchises, liberties, immunities and free customs *have not been heretofore used*, or, it may be, abused, by them or their predecessors, and *although* some of them are, and others *are not particularly enumerated herein.* And further we will, and by these presents, for us, our heirs and successors, of our especial grace, certain knowledge and mere motion, do grant unto the said mayor, jurats and commonalty, and their successors, that these our letters patent, and all and singular things in the same contained, shall be and remain from time to time good, firm, valid, sufficient and effectual in the law, according to the true meaning of these presents, notwithstanding the not naming, or the not right and certain naming, the premises aforesaid, or any

parcel thereof, in their or either of their proper natures, kinds, sorts, quantities or qualities. And notwithstanding the not reciting, or not truly reciting, the said several letters patent beforementioned, or any thing in the same contained, or any act, ordinance, provision, or restriction, or any defect, uncertainty or imperfection in these our letters patent, or any other matter, cause or thing whatsoever to the contrary thereof in anywise notwithstanding: we will also, and by these presents do grant, to the said mayor, jurats and commonalty of the town and parish aforesaid, that they shall and may have these our letters patent, made and sealed in due manner under our great seal of Great Britain, without any fine or fee, great or small, to be therefore in anywise rendered, paid or done to us in our Hanaper, or elsewhere to our use, although express mention be not made in these presents of the true yearly value or certainty of the premises, or of any of them, or of any gifts or grants heretofore made by us, or by any of our ancestors or progenitors, to the said mayor, jurats and commonalty of the town and parish aforesaid, or any ordinance, provision, proclamation, restriction to the contrary thereof heretofore had, made, issued, ordained, or provided, or any other matter, cause or thing whatsoever in anywise notwithstanding. In witness whereof we have caused these our letters to be made patent. Witness ourself, at Westminster, the seventeenth day of June, in the 21st year of our reign.

By writ of privy seal.

Cocks.

The admissions of freemen which have taken place since the granting of this charter, as well as the other entries extracted from the books, support the construction of it we have already given.

Thus, there is an order, of this date, that none but freemen shall exercise any trade within the town. It is as follows :— 1747—21 Geo. II. Aug. 4.

"At a court of burghmote, held on Tuesday the 4th "August 1747. Edward Hunter, esq. mayor, (be- "ing the second court after the grant of the char- "ter,) thirteen jurats and thirty common council "appearing. *It is ordered*, that none but *freemen* "shall exercise any trade within the town according "to ancient usage."

This entry appears to raise the same inference; for the proper rule of construction is, so to take the words, that they may be legal and avail, rather than they should be illegal and void.

If the word "*freemen*" here used is not taken to include all the inhabitants, then the effect of the order would be to prevent a person from trading in the place where he lives, which would be a bye-law in restraint of trade, and void, as well as against reason and common sense. See the Merchant Taylors' case, 11 Co. 8, 53. and Lutw. 564.

It is therefore conceived that the word "*freeman*," in this order, must be taken to include all the inhabitants.

The admissions of Davis and Goff, as *foreigners*, appear also to confirm the view taken before of the clauses in the charters of 17 Jam. I. and 21 Geo. II. as to the admission of freemen; for they, as well as others in the same year and in the succeeding years, are admitted as "*foreigners*," and paid a fine on their admission. Now, there is no doubt, that the term *foreigner* means a person who had not before resided in the place; and these, therefore, are the persons described in the clauses as non-inhabitants; and (as has been observed before) coming to the town, not being inhabitants there, under the law as to vagran-

cy, the inhabitants of the place might send them away, and refuse to admit them; but if they received them, and allowed them to share their privileges, it was but reasonable they should pay a sum of money to secure the other inhabitants against the risk they ran of their afterwards being burdensome to the town, or of the town being responsible for their acts; and also because they were admitted to share their privileges, which is but reasonable, as stated in the case of the corporation of Colchester against Godwin. Cooke's Reports, 114.

The following are copies of these ENTRIES:—

"At this court, (4th August, 1747,) came William "Davis, distiller, and desired to be made *free*, and "hath put himself upon his *foreigner's* fine, and this "court hath set the same at 20*l.*, which he hath ac- "cepted of, and paid down the same, and hath taken "his freeman's oath, and other oaths, and he is made "free."

The admission of Stephen Goffe, glazier, is under the same circumstances; James Gatfield, by his *father's copy;* Isaac Dawson, *apprentice.*

"Maidstone.—Court, &c., held 26th Sept. 1747.

"Thomas Read,	paid foreigner's fine,	20*l.*	were made free."
"William Stone,	do.		
"Robert Read,	do.	15*l.*	
"James Snow,	do.	20*l.*	

In the following month a court of burghmote was held, and amongst the proceedings minuted thereat is the following entry:—

"Maidstone.—Court of burghmote, 30th October, 1747.— "Ordered that the opinion of counsel be taken upon "the charter, whether *all the inhabitants* of the said "town and parish are *freemen* or not by the new

" charter, and that the chamberlain do pay the ex-
" pense thereof."

" At the same court Edward Blundell appeared and
" prayed to be made free, he put himself upon his
" *foreigner's fine*, which was assessed at 15*l.*; he paid
" 10*l.*, gave security for 5*l.*, and took the oaths, &c.
" William Filby the like, fine 20*l.*"

In the following year, Richardson, Torriano, and altogether forty-four others, and in 1753 one other, and in 1761 another, all described " OF *the town and parish*," (which seems clearly to mean *inhabitants* of the town and parish, and that meaning is necessary to give them a *title* to be admitted into the corporation,) came and *desired* to be made free, expressly by VIRTUE OF THE CHARTER LATELY GRANTED; and they are admitted accordingly, *without paying any fine*. It is therefore clear that they are admitted *by right*, according to the charter, and not by any favour of the corporation; and these are the persons admitted under the word " *inhabitants*," in the clauses before referred to. 1748—22 Geo. II.

Now as they are admitted expressly by virtue of the charter of George II., and as there is no pretence for saying that that charter introduced any new mode of creating freemen, the consequence is, that this mode of admitting *inhabitants* by right, and *non-inhabitants* or *foreigners* by *purchase*, or on payment of a fine, is (as was also apparent from all the former documents, as they have occurred in their order,) *the ancient and uniform mode of admitting freemen in this town, as well by charter as by usage*.

It has been seen also that some were admitted, during the same time, by their fathers' copy, and others on the ground of their having been apprentices.

The corporation do not pretend but that the sons of

freemen and apprentices have *an absolute right;* or, in the modern law language on this subject, an *inchoate right* to admission; if so, it is impossible for them to show any reason, either from law or history, why those persons should have any greater right to claim admission than any other inhabitants of the town; they may indeed have a prompter right to admission, which will be explained hereafter, but no different right.

We are aware that the general opinion is otherwise, and that it is ordinarily assumed that the right by birth and apprenticeship are purely corporate rights: but we believe it to be a totally *unfounded error.* It has never been suggested on what law or charter this species of corporate right is founded, and it is too much to require that it should be assumed to be a corporate right, without any foundation laid for it: particularly if any other foundation for it can be ascertained with tolerable certainty,—the early common law to which we have before alluded, readily affords that foundation. Persons were made of free condition, that is, *liberi homines,* by birth; for as the corporation are by law presumed to be conversant of the members of their body; and all who have been admitted as members ought to be free, it follows that they are bound to know the children of freemen, who are by birth free, and consequently such children are entitled to claim from the corporation immediate recognition and admission as freemen.

Freedom by birth.

Apprentices were by the law to be enrolled before the mayor; consequently the corporation were aware of their being apprentices; and they were to be bound for seven years, from which it is clear that an apprentice must be with his master, before his time expires, for more than a year; which, it will be remembered, is by law, as stated by Glanville, sufficient to entitle a man to be free, if he has

Apprentices.

lived that time away from his lord, and is not reclaimed by him.

Apprenticeship was clearly distinguishable from the servitude of a villein to his lord, and inconsistent with it: and consequently whenever an apprentice was out of his time, it was clear that he had lived more than a year free from the service of any lord; and as this must be, for the reason stated above, with the knowledge of the corporation, they were bound instantly to admit him, as by right, a freeman.

The other inhabitants were not all immediately entitled to be admitted; they might or might not be free, till they had lived a year in the place, it did not follow necessarily that they were free; and therefore the corporation were not bound to admit them: but when a person had resided in a place more than three nights, notice of his being there was to be given, by the common law, to the constable, tithingman, or head officer; and after forty days the party was bound to present himself to the tithing man; and, at the next town or court leet, he was to be enrolled amongst the inhabitants of the place, and sworn, if he was a freeman; which, however, would continue in doubt till the expiration of a year and a day: if after that time he was not claimed by any lord, he became free; and in consequence of his being a free inhabitant of the place, he was by law bound to be sworn and enrolled as a free inhabitant, and to take upon himself all the liabilities and burdens consequent thereon; and of course he was to share the privileges of the place: and this explains the distinction which is to be found in the usage of many places as to the peremptory right by birth and apprenticeship, contradistinguished from the right of inhabitants generally.

From these facts, to be found in the history and prac-

tice of our early law, it cannot but be seen how reasonable an origin it affords for the usage, as to the admission of freemen, which has existed in so many boroughs and towns: and on the other hand, it will be seen how futile the prevailing prejudice is, that it has originated in any peculiar law or privilege of corporations: particularly when it is remembered, that none of the early charters contain any provision for the admission of freemen; and that the usages, as to admissions, which existed for centuries before any charter introduced any provision for it, can be traced to no other source but the common law.

Again:—it cannot but be seen how the circumstances mentioned above correspond with the history and practice of most boroughs: and particularly in this case how it reconciles all the charters and documents to themselves, and to reason and law.

It must be apparent also, how this view of the subject falls in with the general law, and makes all the charters granted to the inhabitants consistent (as they must be supposed to be) with the common law: for the whole subject resolves itself into the same question which is now so constantly agitated in the application of the poor laws. Who is a corporator under a charter of incorporation of inhabitants? is precisely the same question as Who is entitled to relief as a poor inhabitant? We use, it is true, now, since the statute of the 13th and 14th Car. II. the term "*settled*" poor; but the real question in settlement law is, Where was the person last a settled and fixed inhabitant? Every person quitting the place in which he was enrolled and sworn as a fixed inhabitant was formerly, as he is now, in a state of vagrancy until he become a fixed inhabitant in some other place. And therefore the question, as to inhabitancy, always was, and still is, in what place a person, if he is rich, is bound to bear

the burthens of local habitation; and in what place, if he is poor, he is entitled to be supported and maintained.

The entries above noticed are made at a court of burghmote, held this day, as is stated, by adjournment. There appear to have been present at the court, Joseph Smâlvill, esq. the mayor, eight jurats and thirty-four common councilmen. 1784—June 11.

"William Richardson *of this town* and parish, gentleman,
"*came and desired to be made free*, by virtue of the
"charter lately granted by his present Majesty to
"this town and parish; and he is allowed the same,
"and hath taken his freeman's oath, and the other
"oaths, and he is made free.

"George Torriano, *of this town* and parish, gentleman,
"came *and desired to be made free*, by virtue of the
"charter, (as in the last entry,) and he is made
"free."

James Seale, yeoman,
Robert Hartridge, yeoman,
John Boswell, victualler,
John Broomfield, bargeman,
Edward Chambers, yeoman,
Thomas Lomas,
William Ashdown, victualler,
Stephen Otway, esquire,
James Wilson,
Thomas Pine, paper-maker,

And in all about *thirty more, all* described of *the town* and parish of Maidstone, *are made free* under the like circumstances.

"Maidstone.—Court of burghmote, held before the "mayor, nine jurats and thirty-two common coun- "cilmen. *Deodatus Bye, of this town and parish, clerk,* 1748—Oct. 11.

" came and desired to be made free by virtue of the
" charter lately granted, &c., and he is made free."
" Robert Pugh,
" Aaron Clayton,
" William Tempest, gentleman, (and about twenty
" more,) all of the *town and parish*, are made free
" under like circumstances."

The above named Deodatus Bye was, at the period of his admission, master of the grammar school; and it seems quite clear that the application for, and grant of the admissions at these two courts were in virtue of inhabitancy only.

1753—June 13. At a court of burghmote.

" John Barden, *of this town* and parish, labourer, came and
" desired to be made free by virtue of the charter,
" and he is allowed the same, and is made free."

At the same court, several apprentices and sons of freemen were admitted as usual.

1761—Aug. 31. At a court of burghmote.

" At this court came Peter Athawes *and desired to be made*
" *free*, and hath put himself upon his *foreigner's fine*,
" and the court set the same at £15, which he paid,
" and was made free."
" John Town, } the like."
" Thomas Adgate, }

Upon the subject of the admission of foreigners enough has already been said, and our observations need not be here repeated.

1761—Sept. 29. " At a court of burghmote.—George Post, esquire, mayor,
" seven jurats and twenty common councilmen and
" many of the commonalty present.
" Barnard Crouch, of *this town*, came and *desired to be*
" *made free*, by virtue of the charter—he is allowed
" the same—taken the oaths, and is made free."

This admission being similar to those in 1748, it becomes unnecessary to observe upon it, further than that therefrom it may be gathered that the *inhabitants* of the town, *as such*, considered themselves at that time entitled to be admitted to the privileges of the place, and that they were not denied them.

It is understood, that about fifty years ago, the corporation passed a bye-law for the purpose of preventing the sale of the freedom of the town: an act in every respect fit and proper to be done; the sale of the freedom being clearly an improper exercise of the discretion as to *strangers* or *foreigners*, vested originally in the corporation by the common law, and afterwards expressly recognised by the charter of 17th James I. and that of the 21st Geo. II. as to the admission of freemen; both of which, strictly speaking, were declaratory of the common law; which, in point of fact, gave to the corporation a general discretion as to the admission or amotion of the persons who were to share the privileges with them; as to *foreigners*, an unlimited discretion to prevent their coming to reside there, if they thought fit; as to inhabitants, a discretion only to reject, of those who were free, such as for any crime were, in contemplation of law, infamous.

In the exercise of that discretion, they were bound by the rules of law; and if they improperly excluded a person without sufficient cause, (which was to be judged of by the Court of King's Bench,) they could be compelled to admit them by mandamus; because it was as much the duty of the corporation to admit, as it was the obligation of the individual to be admitted; and as much for the advantage of the public as of the individual, that he should be enrolled and sworn.

As to the qualifications of birth and apprenticeship, be-

fore alluded to, we have already observed upon them; and the admission by the corporation, that those claiming by birth and apprenticeship have a *title* to be admitted, is in effect an admission that every free inhabitant householder has also the same right: and since the time of James I. (in
See Nov. 21. the 15th year of whose reign, the last claim of villeinage was made) the term *free inhabitant householders* in fact includes *all inhabitant householders;* and it should be remembered, that there is not in this charter any provision requiring these qualifications: they must be added from some other source; if from the common law, then they must be explained by the law; if not from the common law, then they are illegal, as being qualifications not imposed by the charter. See per Mr. Justice Yates, 3 Burr. 1827, in Rex *v.* Spenser.

1766—
6 Geo. III. The above cited case of the King *v.* Spenser remains to be considered. It was a rule for leave to file a criminal information, in the nature of *quo warranto,* against the defendant as a common councilman of Maidstone; it had been obtained in the preceding year, and the matter came before the Court on a rule for arresting the judgment for the defendant, and entering the judgment for the King, notwithstanding the verdict for the defendant. The question was as to the validity of the *bye-law* under which the defendant claimed to have been elected; and which was objected to, on the ground *that it restrained and narrowed the number of electors,* without any authority from the charter, and even contrary to it; and without the consent of the electors took away their rights, and is vague, indefinite and uncertain.

The bye-law was made by the mayor, jurats and commonalty; and, on the common pretence of avoiding popular confusion, provided that the election of common councilmen should be by the mayor, jurats and common

council, and such of the common freemen only as had served parish offices. The charter directed that the election should be by the mayor, jurats and *commonalty:* and the Court held that the bye-law was bad, as restraining the number of electors, so as to exclude altogether an integral part of the corporation, and including a qualification quite different from any in the charter.

From this case, as well as from the former proceedings in *quo warranto*, it is quite obvious, that the select body of the corporation, as well before the granting of the charter of Geo. II. as subsequently, resorted to every expedient, whether legal or not, to support and increase their own power, and never relinquished any part even of their usurpations without a struggle.

It would be as uninteresting as useless to trace the proceedings of the corporation from 1766 to the present time: the system has been uniformly corrupt and oppressive, and the same complaints that were made upwards of half a century ago, continue to be made at the present day; and it is feared that the ruling powers of the town have as little inclination to afford redress for the grievances of which the majority of the inhabitant householders complain, now, as they evinced at that time.

It may, however, be proper to state that, in 1822, a great portion of the respectable inhabitants of the town, looking at the early charters and those granted in more recent times, and considering their claim to the municipal and elective franchises of the place to be indisputable, they determined on boldly demanding a restitution of their rights. With this view, and with this determination, they gave notice to the mayor and town-clerk, that they should attend at the next court of burghmote, and make their claim accordingly.

At the burghmote then held, they attended accord- 1823—November.

ingly, and made their demand, as inhabitants of the town and parish, to be admitted to a participation of the rights and privileges, or, in other words, the freedom of the place; we confidently submit, that this application ought to have been successful, and that it was most improperly rejected, and thus the great body of the very persons for whose benefit the charters were granted, and have been continued, are denied privileges which their servants and labourers are permitted to enjoy.

In confirmation of the view we have taken of this subject, in which we have insisted on the enrolment and swearing in of the free inhabitants at the court leet, we must add, that there is a court of that description, which has been held from time immemorial to the present time; to which all the inhabitant householders are duly summoned, and owe suit and service there; and a due list of them ought to be presented by the constables to the court, and being called over, they should all appear, and take the oath of allegiance as required by law, although the officers of the court have of late years, in defiance of the law, ceased to administer that oath.

The following are copies of ancient directions for holding this court, and the warrant which is usually issued to summon the householders.

Notice of Court Leet.

The King's town, &c.

Notice is hereby given, that the court leet of our Lord the King, for the said town and parish, will be holden at the court-hall, within the said town and parish, on the day of instant, at nine of the clock in the forenoon, at which time and place *all persons who owe suit and service* to the said court are required to attend. Dated the day of

C. D. Mayor.

Ten notices to be stuck up, and the eleventh to be signed by the person who sticks them up, which ought to be the first sergeant.

N. B. Remember you give ten days' notice.

The Form of taking the Record of Leet.

King's, &c. } The court leet and view of frankpledge, holden for the said town and parish, on the day of before C. D., esq. mayor of the said town and parish.

A. B. Constable.

G. G.
R. R.
T. W.
G. M. } Borsholders.

The names of the jury empannelled and sworn to inquire for our sovereign Lord the King.

E. H. sworn first.

T. D.
E. E.
H. E.
S. L.
J. H. } sworn.
J. S.
J. P.
P. S.

L. M.
S. S.
R. G.
T. J.
W. G. } sworn.
W. A.
A. B.

A. B., C. D., E. F., sworn officers.

Which said jury, being sworn and charged, do, upon their oath, present, That, &c. Sworn in court, &c.

We do also present W. T. of M. aforesaid, for constable for the said town and parish for one whole year next ensuing, in the room and stead of T. M.

Same manner enter borsholders, (varying for constable *for one of the borsholders;*) after you have taken the whole down, let the jury set their names at bottom.

The constables and borsholders, for the last year, are to give in their warrants to summon inhabitants to be of the leet and jury; which warrants are to be delivered at least a week before court leet, and which are as follow:—

Warrant to Constable, &c. to return Lists, &c. to appear and do Suit, &c. at Leet.

The King's town, &c. } To the constable and borsholders of the King's town and parish of M. &c.

These are, in his Majesty's name, to charge and command you, immediately on receipt hereof, to give notice, that the court leet, for the said town and parish, is appointed to be held at the court-hall, within the said town, on the day of instant, by nine of the clock in the forenoon of the same day; and that you give personal notice to all the householders within the said town and parish, that they, and every of them, with their sojourners, servants and children, being of mankind, of the age of twelve years and upwards, and under the age of sixty, do then and there personally be and appear, to do their suit and service, and all other things to them belonging, according to the laws and statutes of this realm, and custom of the said town and parish; *and that you warn twenty-four able and sufficient men of the said leet, to be and appear at the time and place aforesaid, to be of the jury, then and there to inquire, for our said town and parish, of all matters and things as shall be given them in charge;** and that you warn four suitors for the several boroughs, within the said town and parish, to see whether all faults presented at the last court were amended at the

C. D. Mayor. L. S.

* What is here printed in italics, in the borsholders' four warrants, is to be omitted; in every other particular the same.

LB S 29

time limited, and to see what other faults are presented at the next court: And that you yourself be then and there present, to make return of this precept, and to do and perform those things to your office appertaining: And have you then and there a note, fairly written, of the names of all such persons as you shall so warn, together with this warrant; and hereof fail not at your peril. Dated the thirteenth day of 18

You are to return a list in writing of all the resiants, as well those who pay as those who do not, distinguishing those who pay from those who do not, otherwise you will be fined. Soon after leet, not longer than a month, you are to give a list, fairly written, of the presentments at the leet, with the warrant to constable.

1st. Call the court, by making proclamation, thus:—

O yes, O yes, O yes, all manner of persons that owe suit and service, and were summoned to appear here this day, to serve our sovereign Lord the King, in his court leet now holden, draw near and give your attendance.

2d. Again make proclamation.

O yes, O yes, O yes, all manner of persons which are resident, and do owe suit royal to this leet, come in and make your suit and answer to your names, as you shall be called, every one on pain and peril which shall fail thereon.

3d. Call over the lists of the inhabitants, and at the end of every list say, You that have made default, come into court, otherwise you will be amerced.

After they are called over, make the proclamation, and say,

4th. If any man will essoigne for another, and save his amerciament for not appearing, let him come to the steward and do the same.

5th. Then call over the jury and swear them.

6th. Then fix upon three of the jury for officers, and administer the oath to them.

7th. Then call the constable and borsholders, with the suitors, &c.

8th. Then read the following acts.

Riot Act, 1 Geo. I. c. 5.

Black Act, 9 Geo. I. c. 22.

Then make proclamation to keep silence while the charge is given to the jury.

Gentlemen of the Jury,—The court leet is a court of very ancient date, but of late years has fallen much into disuse by the establishment of the General Quarter Sessions of the Peace, which by experience is found to be a court much easier for the expediting public business, they being held four times in a year, this only once, &c. &c.

N.B. You may give a long or short charge at your pleasure. After charge adjourn the leet.

Annex the lists of inhabitants together, and put into minute paper, writing, first, at bottom of list (as follows):

"Are resiants within the precinct of this leet, and view of frankpledge, and have been duly summoned to appear at this court, but have made default: The said jury do therefore amerce each and every of them sixpence; and the officers aforesaid, upon their oath aforesaid, do assess the same at four pence for each and every of the defaulters."

From the ancient books of the corporation it appears quite clear that all the inhabitant householders or resiants who made default in doing their suit at the court leet, which consisted in appearing there, and taking the oath of allegiance, were, from the earliest times, amerced for such defaults.

We have now given at length, and observed upon

every document relating to this place which have as yet come to our notice, and perhaps at a length unprecedented, and with a minuteness of detail which has been tedious; but as the view taken of the subject is somewhat novel, and long-continued usurpations and deep-rooted prejudices exist against it, we can hardly expect to establish our point without showing the legal and historical grounds for our opinion, the authorities upon which it is supported, and the manner in which the documents and cases relating to this particular case are reconcilable with our view of the subject; if we are right in this view, (and of which we entertain no doubt,) though prejudice should be strong against it, a minute investigation of the case will nevertheless support it: if we are wrong, the same minuteness of investigation must point out the source of our error, so that it may be readily seen and corrected.

In the reigns of the Stuarts a system arose of gaining an influence for the Government in the different corporations, through the medium of the select bodies. Charles II. by a stretch of arbitrary regal power, seized many of the corporations with whom he was dissatisfied; this raised throughout the country a feeling against those attacks of the Crown, and a strong sensation in favour of the corporations, which spread itself all over the country, and pervaded even the courts of law; whence the preservation of the usages (or more properly the usurpations) of the select bodies became a great object of solicitude, and principles were adopted to support them, which, although they cannot bear the test of examination, were nevertheless perseveringly acted upon, and at length grew into a system, the propriety of which no one felt an interest to dispute, till the evils resulting from it have

become so generally felt, that the inquiry is now almost imperiously necessary.

It only remains that we should make a few general observations upon the whole history of this place, and the documents relating to it.

There cannot be the least doubt but that by all the charters, as well the ancient as that under which the corporation now subsists, the *inhabitants* are the persons incorporated and entitled to the privileges of the place: and that *all the inhabitant householders* paying scot and lot are entitled to be admitted into the corporation; and that none others can be entitled to share the privileges of it.

However, as we know the prejudices that prevail on this subject, and the present disinclination of the courts even to hear these doctrines, and much less to consider them, we cannot but feel that some difficulty and delay may interpose before we procure our right; but we trust to united and continued exertion to remove the former, and patience to endure the latter, till the weight of facts and the conviction of reason may remove all prejudices, and induce the courts, as well as the present corporators, to allow their fellow-townsmen, without further dispute, their clear and indisputable privileges.

We assert boldly, and if we are wrong we trust our error will be pointed out, that any supposed bye-law, restraining the members of the corporation to any selected body of the inhabitants, will not, or at least ought not, to stand in the way of their just claim; and we say that such a bye-law is bad, and void in law, as contrary to the express words of the charter, and limiting the eligibility to a part only of the general body to whom it is expressly granted.

We are aware it has been said by the highest authority

in the court of King's Bench that the word "*inhabitants*" means freemen selected by the corporation, and that they have an unlimited discretion in admitting or rejecting whom they please.

But where rights of such importance to themselves and the public, as those claimed by the inhabitants of Maidstone, are at issue, it is our duty to express the opinions we have deliberately formed, although we feel every possible respect for that high and learned authority, and trust we may be excused for saying, with respect to the opinion expressed extrajudicially, and only as an *obiter dictum*, that, at least as far as this place is concerned, after the minute attention we have given to the question, we are satisfied both those opinions are incorrect, and will, upon investigation, be found to be so.

To say that the words *inhabitants* and *commonalty* mean, in this charter, a body selected at the mere arbitrary will of the mayor, jurats and commonalty, is contrary to the words, spirit, and intention of all the charters: and, explained in the manner before stated, contrary to the ancient usage of this place: and to assume generally, that such a power of selection is inherent in a corporation, is to sanction usurpation, and from a general undefined conception that such things have generally been used, to close the door of inquiry, and decide on unascertained and erroneous guesses.

We know, if the history of any of the boroughs or corporations, in which such a course has been exercised, is investigated, the usage will be found to be an usurpation, commencing in the same manner and time, and supported by the same means, as it has been practised in this place: no history of any place has been investigated in which it has not been so found.

As to the parliamentary right of election, we have also

no doubt that the right is properly in the *inhabitants*, and that it ought to be so decided.

From the granting of the charter of Edward VI. to the 17 James I. it is quite clear that the corporators were the *inhabitants*, and till that time, (when the ambiguous clause for the admission of non-inhabitants was introduced,) the right of parliamentary election must have been *exercised* by the *inhabitants*. If that was so, the case of Chippenham, in Glanville's Reports, p. 47, and the doctrine in the 4th Institutes, page 48, are decisive to show that the clause in the charter of 17 James I. could not alter the right of parliamentary election, or divest the right once *exercised* by the inhabitants. The agreements as to the right in 1701 and 1702 ought not to affect the right of election, as such agreements can neither bind the inhabitants or a committee: and even if they were taken as evidence of reputation as to the right of election, still the term *freemen* is capable of being construed to mean *free inhabitants;* which construction is necessary in order to make the agreements correspond with the charters.

The *inhabitants, therefore, have properly the right of election;* though a contrary *usage* may have some time prevailed, *but such usage, when proved to have no foundation in law, cannot prevail against a public right.*

FINIS.

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